

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Create Jobs through Investment in Green Energy

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 5 MRSA §58 is enacted to read:

§ 58. Consolidation of energy programs

Any agency of State Government administering a program or measure related to energy efficiency, energy demand reduction, peak load reduction or distributed renewable energy technology as defined in Title 35-A, section 102, subsection 4-A in buildings, facilities and appliances shall, to the extent permitted by law, contract with Efficiency Maine established under Title 35-A, chapter 97 to administer the program, service or measure, unless both the agency and Efficiency Maine determine that such a contract would be less cost-effective than a different cooperative relationship. Regardless of whether administration by Efficiency Maine is permitted or undertaken, all agencies shall coordinate with Efficiency Maine to ensure that such programs and measures are jointly marketed with Efficiency Maine, integrated with its programs and constructed to facilitate use of the program by users of Efficiency Maine's services. The Maine State Housing Authority and the Maine Municipal Bond Bank are exempted from the requirements of this section, except as otherwise provided by law.

Sec. A-2. 5 MRSA §1764-A, as corrected by RR 2003, c. 1, §2, is amended to read:

§ 1764-A. Improvement of energy efficiency and usage of distributed renewable technology in state-funded construction

1. Definitions. For purposes of this section, "substantially renovated" means any renovation for which the cost exceeds 50% of the building's current value prior to renovation. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

B. "Green design building standard" means an energy and environmental design green building rating standard adopted by rule by the board of Efficiency Maine, established in Title 35-A, chapter 97. Rules adopted under this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

C. "Substantially renovated" means having had a renovation for which the cost exceeds 20% of the building's current value prior to renovation.

2. Rules. The Bureau of General Services, in consultation with the Energy Resources Council Board of Efficiency Maine, established in Title 35-A, chapter 97, and the Public Utilities Commission, shall by rule require that all planning and design for the construction of new or substantially renovated state-owned or state-leased buildings; new or substantially renovated buildings owned or leased by the University of Maine System, the Maine Community College System or the Maine Maritime Academy; and buildings built or substantially renovated with state funds, including buildings funded through state bonds or the Maine Municipal Bond Bank:

A. Involve consideration of architectural designs and energy systems, including distributed renewable energy technology and load management systems, that show the greatest net benefit over the life of the building by minimizing long-term energy and operating costs;

B. Include an energy-use target that exceeds by at least the greater of 20% above the energy efficiency standards in effect for commercial and institutional buildings pursuant to Title 10, section 1415-D chapter 1103 and the green design building standard most closely related to the building and project type; and

C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a minimum of 30 years and that explicitly includes the public health and environmental benefits associated with energy-efficient building design and construction, to the extent they can be reasonably quantified.

Rules adopted pursuant to this section apply to all new or substantially renovated state-owned or state-leased buildings, new or substantially renovated buildings owned or leased by the University of Maine System, the Maine Community College System or the Maine Maritime Academy and buildings built or substantially renovated with state funds, including buildings funded through state bonds or the Maine Municipal Bond Bank, regardless of whether the planning and design for construction is subject to approval by the department.

Rules adopted pursuant to this section may provide for exemptions, waivers or other appropriate consideration for buildings with little or no energy usage, such as unheated sheds or warehouses.

~~The Bureau of General Services shall adopt rules pursuant to this section by July 1, 2004.~~ Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Approval. A state agency responsible for approving the construction of a new or substantially renovated state-owned or state-leased building, new or substantially renovated buildings owned or leased by the University of Maine System, the Maine Community College System or the Maine Maritime Academy and buildings built or substantially renovated with state funds, including buildings funded through state bonds or the Maine Municipal Bond Bank, may not grant such approval unless the agency or other entity or organization proposing the construction can show that it has duly considered the most energy-efficient and environmentally efficient designs suitable in accordance with rules adopted pursuant to this section and that the proposed construction project meets the standards described in subsection 2, paragraph B.

Sec. A-3. 5 MRSA §1830, sub-§3, ¶B, as enacted by PL 2005, c. 386, Pt. H, §10, is amended to read:

B. Specifications for vehicles to be acquired by the State, including the highest feasible fuel economy standards, taking into account the range of projected fuel cost increases over the life of the vehicle;
and

Sec. A-4. Rules. The board of Efficiency Maine, in adopting rules under the Maine Revised Statutes, Title 5, section 1764-A defining the green design building standard, shall use the United States Green Building Council's leadership in energy and environmental design green building rating standard, referred to as the silver standard, or an equivalent performance-based standard, as long as whatever standard it adopts provides a building energy efficiency standard that is at least 20% above the energy efficiency standards established for the relevant type of building under the Maine Uniform Building and Energy Code under Title 10, chapter 1103.

PART B

Sec. B-1. 10 MRSA §363, sub-§4, as amended by PL 1999, c. 728, §3, is further amended to read:

4. Allocation to Maine State Housing Authority. That portion of the state ceiling allocated under this section to the category of bonds for housing or housing-related purposes other than for Efficiency Maine projects as defined in section 963-A must be allocated to the Maine State Housing Authority, which may further allocate that portion of the state ceiling to bonds for housing-related projects that require an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Maine State Housing Authority to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.

Sec. B-2. 10 MRSA §363, sub-§6, as amended by PL 1999, c. 728, §4, is further amended to read:

6. Allocation to the Finance Authority of Maine. That portion of the state ceiling allocated to the category of bonds that are limited obligations of the issuer payable solely from the revenues of the projects financed with the proceeds of the bonds, other than for housing-related projects or issues included in an issue of the Maine Municipal Bond Bank, as well as that portion of the state ceiling allocated to bonds authorized to be issued by the Finance Authority of Maine pursuant to Title 20-A, chapter 417-B and that portion of the state ceiling allocated to Efficiency Maine projects as defined in section 963-A, must be allocated to the Finance Authority of Maine, which may further allocate that portion of the state ceiling to bonds requiring an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Finance Authority of Maine to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.

Sec. B-3. 10 MRSA c. 1105 is enacted to read:

CHAPTER 1105

ENERGY AUDIT

§ 9751. Energy audit

1. Audit required. Between the effective date of this chapter and December 31, 2018, every building and industrial facility in the State must have a thorough audit or series of audits by professionals meeting standards prescribed by Efficiency Maine pursuant to Title 35-A, section 10107, subsection 1, paragraph C, to identify gas, heat and electric energy efficiency and conservation, distributed renewable energy technology and effective load management measures that could be adopted for or installed at the building or facility that would have a payback period of up to 15 years, unless the building or facility:

- A. Is scheduled for demolition before December 31, 2018;
- B. Meets or exceeds the green design building standard, as defined in Title 5, section 1764-A; or
- C. Is otherwise exempted pursuant to rules adopted by the Public Utilities Commission.

For purposes of this subsection, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

2. Entitlement to compensation. If the audit under subsection 1 is done in coordination with Efficiency Maine, established in Title 35-A, chapter 97, and in a manner consistent with any standards that Efficiency Maine may impose, Efficiency Maine shall pay for the reasonable cost of the audit and may contract directly with the auditor or auditors.

PART C

Sec. C-1. 20-A MRSA §8606-A, sub-§2, ¶C, as amended by PL 2005, c. 12, Pt. D, §1, is further amended to read:

C. The recommendation in the commissioner's funding level certification must include local adult education program cost adjustment to the equivalent of the year prior to the year of allocation. This adjustment is calculated according to the same guidelines established, for purposes of chapter 606-B, by section 15689-C, subsection 3. The commissioner shall further adjust the education program cost in accordance with any increase in the use of adult education services that exceeds expectations based on population growth to the extent such increase is attributable to workforce development programs adopted within the last 4 years in the region served by the local adult education program.

Sec. C-2. 20-A MRSA §8606-A, sub-§3, as amended by PL 2007, c. 131, §5, is further amended to read:

3. State reimbursement. State reimbursement for expenditures on adult education programs must be based on each unit's, region's or center's actual adult education program costs in the base year, with an adjustment for any increase in the use of adult education services that exceeds expectations based on population growth, to the extent such increase is attributable to workforce development programs

adopted within the last 4 years in the region served by the local adult education program, except that in fiscal years 1991-92 and 1992-93 available state funding is limited to the fiscal year 1990-91 level, and in fiscal years 1995-96 and 1996-97 available state funding is limited to the fiscal year 1994-95 level.

A. The state reimbursement must be based on the unit's, region's or center's expenditures for the base year in accordance with the maximum allowable expenditures and the local program cost adjustment to the equivalent of the year prior to the year of the allocation, except insofar as an adjustment is needed for any increase in the use of adult education services that exceeds expectations based on population growth, to the extent such increase is attributable to workforce development programs adopted within the last 4 years in the region served by the local adult education program.

B. State reimbursement must be paid to each eligible unit, region or center during the 2nd quarter of the State's fiscal year.

Sec. C-3. 20-A MRSA §15681, sub-§6 is enacted to read:

6. Targeted workforce development funds. A school administrative unit may receive targeted workforce development funds from any source, including but not limited to the Green Energy Job Growth Fund established in Title 26, section 2041 and must expend those funds in accordance with any requirements imposed on the use of the funds.

Sec. C-4. 20-A MRSA §15697 is enacted to read:

§ 15697. Workforce development funds; outside the funding formula

To receive targeted workforce development funds from any source, including but not limited to the Green Energy Job Growth Fund established under Title 26, section 2041, a school administrative unit must meet the requirements imposed on the use of the funds, as well as all other relevant requirements of this Title. Funds received by a school administrative unit from the Green Energy Job Growth Fund may not be included in any of the calculations made under this chapter and are not part of the total cost components of essential programs and services.

Sec. C-5. 20-A MRSA §15903, sub-§3, ¶C, as enacted by PL 1981, c. 693, §§5 and 8 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

C. The Department of Health and Human Services; and

Sec. C-6. 20-A MRSA §15903, sub-§3, ¶D, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

D. The State Fire Marshal; and

Sec. C-7. 20-A MRSA §15903, sub-§3, ¶E is enacted to read:

E. Efficiency Maine as established under Title 35-A, chapter 97.

Sec. C-8. 20-A MRSA §15908-A, as amended by PL 2007, c. 578, §1, is further amended to read:

§ 15908-A. School energy efficiency standards and distributed renewable energy technology rules

1. Definitions. For purposes of this section, "substantially renovated" means ~~any~~ renovation for which the cost exceeds ~~50%~~20% of the building's current value prior to renovation, "green design building standard" has the same meaning as in Title 5, section 1764-A and "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

2. Rules. The state board, in consultation with the Department of Administrative and Financial Services and the Public Utilities Commission, shall by rule require as a condition for state funding for construction that, except as provided in subsection 4, all planning and design for new or substantially renovated schools or school buildings subject to state board approval:

A. Involve consideration of architectural designs and energy systems, including distributed renewable energy technology and load management systems, that show the greatest net benefit over the life of the building by minimizing long-term energy and operating costs;

B. Include an energy-use target that exceeds ~~by at least~~the greater of 20% above the energy efficiency standards in effect for commercial and institutional buildings pursuant to Title 10, ~~section 1415-~~chapter 1103 and the green design building standard most closely related to the building and project type; and

C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a minimum of 30 years and that explicitly includes the public health and environmental benefits associated with energy-efficient building design and construction, to the extent they can be reasonably quantified.

The state board shall adopt rules pursuant to this section by July 1, 2004. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Requirements for approval. Except as provided in subsection 4, the state board shall withhold approval of a state-funded new or substantially renovated school or school building if the local school authority proposing the project can not show that it has duly considered the most energy-efficient and environmentally efficient designs suitable in accordance with rules adopted pursuant to this section and that the proposed construction project meets the standards described in subsection 2, paragraph B.

4. Renovation of historic school buildings; waiver. The state board may, in consultation with the Public Utilities Commission and the Executive Director of the State Historic Preservation Commission, grant a waiver from the requirements of this section on a case-by-case basis for instances of substantial renovation of a historic school building, insofar as it permits the project to meet the green design building standard for historic buildings rather than exceeding by 20% the energy efficiency standards in effect for commercial and institutional buildings pursuant to Title 10, chapter 1103. For the purposes of this subsection, "historic school building" means a school building that is on the National Register of Historic Places, eligible for nomination to the national register or designated as a historic building by a certified municipal historic preservation ordinance.

A. The state board shall grant a waiver request if, in the board's opinion, the local school authority proposing the renovation project has demonstrated that renovation of the historic school building would not compromise the public health and safety requirements of this chapter and that 2 or more of the following circumstances exist:

(1) Renovation of the historic school building is in substantial compliance with the energy efficiency standards required under this section as determined by the Public Utilities Commission;

(2) Renovation of the historic school building provides substantial energy efficiency as determined by the Public Utilities Commission and also provides education, social or environmental benefits as determined by the department over alternative proposals, including, but not limited to, any proposals to construct a new school on an alternative site; and

(3) Adherence to the energy building standards would result in irreparable damage to the historic character of a historic school building as determined by the Executive Director of the State Historic Preservation Commission.

B. An application for a waiver from the requirements of this section must be submitted to the state board in accordance with requirements established by the state board by rule pursuant to paragraph D. The waiver application must include documentation to substantiate the conditions of this subsection. If the request is denied, the state board shall communicate the reasons for denying the request to the applicant.

C. The state board shall render a decision on an application for a waiver from the requirements of this section within 60 days of the receipt by the state board of a complete application for a waiver. In rendering a decision, the state board may place conditions upon the granting of a waiver. Failure on the part of the state board to render a decision within the 60-day period constitutes approval of the request for the waiver.

D. The state board shall adopt or amend rules to implement the requirements of this subsection. Rules adopted under this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. C-9. 20-A MRS §15915, as amended by PL 2005, c. 499, §1, is further amended to read:

§ 15915. Energy service companies and 3rd-party financing

1. Initial agreement. Any school administrative unit may enter into an agreement of up to ~~15~~20 years with a private party, such as an energy service or 3rd-party financing company, for the design, installation, operation, maintenance and financing of energy conservation, distributed renewable energy technology, effective load management or combined energy conservation and air quality improvements

at existing school administrative unit facilities. For purposes of this section, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A. The school administrative unit's costs to enter into such an agreement are not applicable to the unit's school construction project costs, the debt service on which is eligible for subsidy purposes under section 15907. Such an agreement is deemed to be a professional service, which is not subject to the competitive bidding requirements of Title 5, section 1743-A, if the agreement:

- A. Provides for operation or maintenance of the improvement for at least 5 years or the entire term of the financing agreement if longer than 5 years;
- B. Requires a guaranty by the contractor that the improvement will meet performance criteria set forth in the agreement for at least 5 years or for the entire term of the financing agreement if longer than 5 years; and
- C. Has a total contract cost, excluding interest and operating and maintenance costs, of less than \$2,000,000 for any school building, except that this limit may be exceeded if all risk that the project's costs will exceed its benefits is borne by an entity other than the school administrative unit.

A school administrative unit may select contractors for these professional services on the basis of a request for qualifications or a request for proposals and it is not required to use a competitive method set forth in this chapter and Title 5, section 1743-A and Private and Special Law 1999, chapter 79. The selection process must include at a minimum a request for qualifications or a request for proposals that is advertised in a newspaper of general circulation in the school administrative unit and a newspaper of general circulation in the City of Augusta. The school administrative unit shall interview not fewer than 3 service providers unless a smaller number of service providers responds to the request for qualifications or requests for proposals. The performance criteria in the agreement is subject to approval by the Department of Administrative and Financial Services, Bureau of General Services. A request for qualifications or proposals may not contain terms that require service providers to have more than 3 years of experience in the energy conservation field or the use of equipment that is not generally available to service providers or terms that are otherwise included for the purpose of bias or favoritism toward a particular service provider. Objections to the terms of a request for qualifications or proposals under this subsection are deemed waived if not delivered in writing to the office of the superintendent of schools in that school administrative unit within 21 days of the last publication of the newspaper advertisement. The school administrative unit may seek technical and other assistance from Efficiency Maine under Title 35-A, chapter 97 in this process.

2. Future operation. Any school administrative unit, at the termination of the agreement with the private party pursuant to this section, may acquire, operate and maintain the improvement, may renew the agreement with the private party or may make an agreement with another private party to operate and maintain the improvement.

PART D

Sec. D-1. 26 MRSA c. 25, sub-c. 6 is enacted to read:

SUBCHAPTER 6

GREEN ENERGY JOB GROWTH INITIATIVE

§ 2041. Green Energy Job Growth Fund

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Career ladder" means an identified series of positions, work experiences and educational benchmarks or credentials that offer occupational and financial advancement within a specified career field or related fields over time.

B. "Department" means the Department of Labor.

C. "Fund" means the Green Energy Job Growth Fund established in subsection 2, paragraph A.

D. "Green energy economy" means the portion of the economy relating to energy efficiency, energy demand reduction, peak load reduction and renewable energy as these factors relate to building, facility, appliance and related consumption of energy, but not as they relate to transportation.

E. "Industry cluster" means a concentration of interconnected businesses, suppliers, service providers and associated institutions in a particular field that are linked by common workforce needs.

F. "Industry or sector partnership" means a green energy economy workforce collaborative as established under subsection 7.

G. "Target populations" means:

(1) Entry-level or incumbent workers in high-demand green energy economy industries as established pursuant to subsection 5 who are in, or are preparing for, high-wage occupations;

(2) Dislocated workers in declining industries who can be retrained for high-wage occupations in high-demand green energy economy industries;

(3) Dislocated agriculture, timber or energy sector workers who can be retrained for high-wage occupations in high-demand green energy economy industries;

(4) Veterans or Maine National Guard members;

(5) Disadvantaged populations as determined by the department; or

(6) Persons eligible to participate in the Competitive Skills Scholarship Program under section 2033.

H. "Workforce intermediary" means an entity that proactively addresses workforce needs in an industry and improves regional competitiveness by working with and considering the needs of employers, workers, job seekers and other stakeholders, with a focus on developing career ladders, education and training services and related support services to help low-income workers enter higher-wage and skilled jobs in the industry.

2. Initiative and fund established. The department shall establish and administer a comprehensive green energy economy industry and workforce development program called the Green Energy Job Growth Initiative, with the goal of increasing by 2019 the number of green energy economy jobs in this State to at least 20,000 more than existed in the State as of 2008, as determined by the department.

A. The Green Energy Job Growth Fund is established as a nonlapsing fund in the department to be used for the purposes of this section. The fund receives funds from the sale of efficiency credits pursuant to Title 35-A, section 10009 and may receive any other funds appropriated or allocated to the fund as well as any other funds accepted by the department for deposit in the fund. Unexpended balances in the fund at the end of a fiscal year may not lapse, but are carried forward to the next fiscal year to be used for the same purposes. All funds appropriated, allocated or otherwise directed to the fund must be deposited in the fund.

B. Except as otherwise provided by law, the department is the designated state agency to receive and administer federal funds for workforce development in green energy economy industries and any federal funds received for that purpose must be deposited in the fund.

3. Development of terminology. The department, in consultation with stakeholders, including the board of Efficiency Maine, the Department of Economic and Community Development, the Executive Department, State Planning Office, the Maine Jobs Council, leaders of the State's career and technical educational system, the Maine Community College System, the University of Maine System, the Maine Technology Institute, the Public Utilities Commission, the Maine State Housing Authority, business leaders and industry associations and organizations in green energy economy industries, representatives of labor organizations in the building trades, nonprofit organizations that focus on environmental issues and workforce development and governmental and nonprofit entities that focus on economic development issues, shall develop and maintain a list of defined terms, consistent with current workforce and economic development terms, associated with green energy economy industries and jobs.

4. Labor market, workforce and industry analysis. The department shall:

A. In consultation with the stakeholders listed in subsection 3, conduct ongoing labor market research to analyze the current labor market and projected job growth in the green energy economy, the current and projected recruitment and skill requirement of green energy economy industry employers, the wage and benefits ranges of jobs within green energy economy industries and the education and training requirements of entry-level and incumbent workers in those industries; and

B. In consultation with the stakeholders listed in subsection 3, the Department of Professional and Financial Regulation and any relevant boards established pursuant to Title 5, section 12004-A and pursuant to the analysis under paragraph A, develop findings and recommendations regarding comprehensive career ladders for the jobs identified in that analysis, and make findings and provide recommendations to appropriate agencies or entities regarding measures to support and facilitate the movement of workers up those career ladders, including but not limited to recommendations for appropriate curricula for and linkages between relevant State programs, revisions to building trades curricula to integrate skills related to the green energy economy, establishment of skill certifications for incumbent workers, revisions to licensing standards, changes to the responsibilities of boards established under Title 5, section 12004-A and creation of additional boards pursuant to Title 5, section 12015.

(1) In developing its recommendations, the department shall include consideration of those skills related to best environmental practices beyond those directly related to the green energy economy.

(2) Except where it does not serve the public interest to do so, the department shall use nationally recognized standards and certifications.

(3) The department shall submit recommendations for regulation of professional or occupational groups to the Department of Professional and Financial Regulation pursuant to Title 32, section 60-J that give due consideration to the urgency of achieving the goal of reducing the State's energy costs and reliance on fossil fuels and the importance of high-quality work and universally recognized qualifications in maximizing progress toward this goal.

(4) In performing its duties under this paragraph, the department shall prioritize occupations related to the audit of energy efficiency, including but not limited to energy auditors, and occupations related to installation of distributed renewable energy technology, including but not limited to solar thermal system installers. For purposes of this paragraph, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

5. Designation of high-demand industries. Based on the findings under subsection 4, the department, in consultation with the stakeholders listed in subsection 3 and taking into account the requirements and goals of this section and other state clean energy and energy efficiency policies, shall propose which industries will be considered high-demand green energy economy industries based on current and projected job creation and strategic importance to the development of the State's green energy

economy. The department shall take into account which jobs within green energy economy industries will be considered high-wage occupations and occupations that are part of career ladders to high-wage occupations, based on family-sustaining wage and benefits ranges as determined by the department. The department shall provide its findings and proposals as well as the results of the department's broader labor market research under subsection 4 to the Maine Jobs Council, the State's career and technical educational centers, the Maine Community College System and the University of Maine System, and all these entities as well as the department shall use this information in making planning and strategic decisions.

6. Identification of emerging technologies and innovations. The Department of Economic and Community Development, in consultation with the stakeholders described in subsection 3, shall identify emerging technologies and innovations that are likely to contribute to advancements in the green energy economy and, consistent with any other requirements of law, shall:

- A. Develop targeting criteria for existing investments and develop recommendations for comprehensive strategies to recruit, retain and expand green energy economy industries and small businesses; and
- B. Develop recommendations for comprehensive strategies to stimulate research and development of green energy technology and innovation.

The Department of Economic and Community Development shall annually, by January 15th, provide a report of its recommendations to the Governor and to the joint standing committee of the Legislature having jurisdiction over business and economic development matters.

7. Industry or sector partnerships. The Maine Jobs Council shall create and oversee industry or sector partnerships.

A. An industry or sector partnership:

(1) Organizes key stakeholders in a targeted industry cluster into a working group that focuses on the human capital needs of a targeted industry cluster and that includes, at the appropriate stage of development of the partnership:

(a) Representatives of multiple firms or employers, including workers, in a targeted industry cluster, including small and medium employers when practicable;

(b) One or more representatives of state labor organizations or central labor councils;

(c) One or more representatives of local workforce investment boards;

(d) One or more representatives of training providers, including at least one representing postsecondary educational institutions and one representing secondary educational institutions and adult educational institutions, preferably from the career and technical education system; and

(e) One or more representatives of state workforce agencies or other entities providing employment services; and

(2) May include representatives of:

(a) State Government or local government, including, but not limited to, state or local economic development agencies or other state or local agencies;

(b) Chambers of commerce;

(c) Nonprofit organizations;

(d) Industry associations; and

(e) Other organizations, as determined necessary by the other members comprising the industry or sector partnership.

B. A stakeholder within an industry or sector partnership is eligible to receive grants from the fund under this section and may serve as workforce intermediary, convene and lead the partnership and serve as the fiscal agent to administer the grant. Industry or sector partnership applicants must provide to the Maine Jobs Council labor market and industry analysis that demonstrates high demand, or demand of strategic importance to the development of the State's green energy economy, for high-wage occupations, or occupations that are part of career ladders to high-wage occupations, within the relevant industry sector. An approved industry or sector partnership shall:

(1) Conduct labor market and industry analysis, in consultation with the department, drawing on the findings of the department's research when available;

(2) Plan strategies to meet the recruitment and training needs of the industry and small businesses; and

(3) Leverage and align other public and private funding sources. Notwithstanding section 2006, subsection 5-A, paragraph I, the department and the Maine Jobs Council shall work with the State's career and technical education centers and labor affiliates administering state-approved, joint apprenticeship programs or labor-management partnership programs that train workers to provide appropriate education and training below the associate degree level, particularly within the building trades.

8. Expenditures from fund. The department may use funds in the fund solely to carry out the purposes of this section.

A. Except as provided in this paragraph, the department may award no more than 20% of the funds received pursuant to Title 35-A, section 10009 in the form of planning, implementation, renewal and other grants under this paragraph. The awards must be made on a competitive bid basis. The department may make awards in excess of this ceiling if the department determines that doing so will leverage substantial additional public or private funds. The department may exceed the limits established on individual grants under subparagraphs (1), (2), (3) and (6) if the department determines that doing so will leverage substantial additional public or private funds. The department may make grants under this paragraph only if the department determines that other public or private funds are insufficient or unavailable for the purpose. The department shall ensure that all grants made under this paragraph are fully expended or obligated to be expended by the last day of the grant period and that any money that is unexpended by the last day of the grant period is returned to the fund.

(1) The department may award a planning grant of up to \$25,000 for a grant period of up to one year to a newly formed industry or sector partnership that has not previously received a grant under this section.

(2) The department may award an implementation grant of up to \$500,000 for a grant period of 3 years or up to \$167,000 per year for a shorter grant period to an industry or sector partnership that has received a planning grant under this section or to an established industry or sector partnership.

(3) The department may award a renewal grant of up to \$225,000 for a grant period of 3 years or up to \$75,000 per year for a shorter grant period to an industry or sector partnership that has received an implementation grant under this section. The department shall prioritize renewal grants to industry or sector partnerships that can demonstrate long-term sustainability and shall, as a condition of renewing the grant, require significantly increased leveraging of additional public and private funds by the partnership compared to the preceding year of the implementation grant.

(4) In order to qualify for a grant under this paragraph, an industry or sector partnership shall identify an industry cluster that could benefit from such a grant by:

(a) Working with businesses, industry associations and organizations, labor organizations, state boards, local boards, economic development agencies and other organizations that the industry or sector partnership determines necessary to identify an appropriate industry cluster based on criteria that include, at a minimum:

(i) Data showing the competitiveness of the industry cluster;

(ii) The importance of the industry cluster to the economic development of the area served by the industry or sector partnership;

(iii) The identification of supply and distribution chains within the industry cluster; and

(iv) Research studies on industry clusters; and

(b) Working with appropriate employment agencies, workforce investment boards, economic development agencies, community organizations and other organizations that the industry or sector partnership determines necessary to ensure that the industry cluster identified under division (a) should be targeted for investment, based primarily on the following criteria:

(i) Potential for job growth;

(ii) Competitiveness;

(iii) Employment base;

(iv) Wages and benefits;

(v) Demonstrated importance of the industry cluster to the local economy and to the green energy economy; and

(vi) Workforce development needs.

(5) An industry or sector partnership seeking a grant under this paragraph shall submit an application to the department at such time, in such manner and containing such information as the department may require, including, at a minimum:

(a) A description of the industry or sector partnership, evidence of its capacity to carry out activities in support of the strategic objectives identified in the application under division (d) and a description of the expected participation and responsibilities of each of the stakeholders in subsection 7, paragraph A, subparagraph (1);

(b) A description of the industry cluster for which the industry or sector partnership intends to carry out activities through a grant under this section and a description of how the industry cluster was identified in accordance with subparagraph (4);

(c) A description of the workers who will be recruited by the industry or sector partnership, including an analysis of the existing labor market, a description of potential barriers to employment for workers and a description of strategies that will be employed to help workers overcome such barriers;

(d) A description of the strategic objectives that the industry or sector partnership intends to carry out for the industry cluster, which must include:

(i) Recruiting key stakeholders in the industry cluster, such as businesses and employers, labor organizations, industry associations, local and state workforce investment boards and education and training providers, and regularly convening the stakeholders in a collaborative structure that supports the sharing of information, ideas and challenges common to the industry cluster;

(ii) Identifying the training needs of multiple businesses, especially skills critical to competitiveness and innovation in the industry cluster;

(iii) Facilitating economies of scale by aggregating training and education for multiple employers;

(iv) Helping secondary, adult, vocational and postsecondary educational institutions and training institutions align curricula and programs to industry demand, particularly for higher skill, high-priority occupations identified for the industry cluster;

(v) Ensuring coordination with the department so that the department informs recipients of unemployment insurance and trade adjustment assistance under the federal Trade Act of 1974, 19 United States Code, Section 2101 et seq. of the job and training opportunities that may result from the implementation of this grant;

(vi) Informing and collaborating with organizations such as youth councils, business-education partnerships, apprenticeship programs, secondary schools and postsecondary educational institutions and with parents and career counselors for the purpose of addressing the challenges of connecting disadvantaged adults and youth to careers;

(vii) Helping companies to identify and work together to address common organizational and human resource challenges, such as recruiting new workers, implementing effective workplace practices, retaining dislocated and incumbent workers, implementing a high-performance work organization, recruiting and retaining women in nontraditional occupations, adopting new technologies and fostering on-the-job learning;

(viii) Developing and strengthening career ladders within and across companies and in cooperation with any labor organizations representing employees engaged in similar work in the industry cluster in order to enable dislocated, incumbent and entry-level workers to improve skills and advance to higher-wage jobs;

(ix) Improving job quality through improving wages, benefits and working conditions;

(x) Helping companies in industry or sector partnerships to attract potential employees from a diverse base, including individuals with barriers to employment, such as economically disadvantaged individuals, youth, older workers and individuals who have completed a term of imprisonment, by identifying barriers through analysis of the existing labor market and implementing strategies to help workers overcome such barriers; and

(xi) Strengthening connections among businesses in the industry cluster, leading to cooperation beyond workforce issues to improve competitiveness and job quality, such as joint purchasing and market research;

(e) A description of the manner in which the eligible entity intends to make sustainable progress toward the strategic objectives described in division (d);

(f) Performance measures, with quantifiable benchmarks, for measuring progress toward the strategic objectives. Such measures must consider, at a minimum, the benefits provided by the grant activities funded under this section for:

(i) Workers employed in the industry cluster, disaggregated by gender and race, including the number of workers receiving portable industry-recognized credentials; the number of workers with increased wages, the percentage of workers with increased wages, and the average wage increase; and, for dislocated or nonincumbent workers, the number of workers placed in sector-related jobs; and

(ii) Firms and industries in the industry cluster, including the creation or updating of an industry plan to meet current and future workforce demand; the creation or updating of published industry-wide skill standards or career ladders; the creation or updating of portable, industry-recognized credentials, or where there is not such a credential, the creation or updating of a training curriculum that can lead to the development of such a credential; in the case of an eligible entity that is an industry or sector partnership, the number of firms, and the percentage of the local industry, participating in the industry or sector partnership; and the number of firms, and the percentage of the local industry, receiving workers or services through the grant funded under this section;

(g) A timeline for achieving progress toward the strategic objectives; and

(h) In the case of an industry or sector partnership desiring an implementation grant under this section, an assurance that the industry or sector partnership will leverage other funding sources to provide training or support services to workers under the grant program.

(6) The department may award one-time grants of up to \$10,000 to entities eligible under this paragraph for the purposes of curriculum development, development of transitional jobs strategies for dislocated workers in declining industries who may be retrained for high-wage occupations in green energy economy industries, workforce education to target populations and adult basic and remedial education linked to occupation skills training, to the extent the department determines such purposes are better achieved through making such grants than through planning, implementation and renewal grants made under subparagraph (1), (2) or (3).

(a) A recipient of a grant under this subparagraph may be any organization that has demonstrated expertise in:

(i) Implementing effective education and training programs that meet industry demand; and

(ii) Recruiting and supporting workers from the target populations.

(b) In awarding grants under this paragraph, the department shall give priority to applicants that demonstrate the ability to:

(i) Use labor market and industry analysis developed by the department and by industry or sector partnerships in the design and delivery of the relevant education and training programs and otherwise use strategies developed by industry or sector partnerships;

(ii) Leverage and align existing public programs and resources and private resources toward the goal of recruiting, supporting, educating and training workers from the target populations;

(iii) Work collaboratively with other relevant stakeholders in the regional economy;

(iv) Link adult basic and remedial education, where necessary, with occupation skills training;

(v) Involve employers and labor unions in the determination of relevant skills and competencies and, where relevant, the identification of career ladders; and

(vi) Ensure that support services, where necessary, are integrated with education and training and are delivered by organizations with direct access to and experience with the target population of workers.

B. In 2009, 2010 and 2011, the department may expend up to 10% of the funds received pursuant to Title 35-A, section 10009 for the administrative costs of performing duties outlined in this section and to support performance by the Department of Economic and Community Development of its duties under this section. In 2012 and thereafter, the department may expend up to 2% of the funds received pursuant to Title 35-A, section 10009 for administrative costs under this section.

C. The department shall expend funds received pursuant to Title 35-A, section 10009 and not expended under paragraph A or B to provide direct support to individuals pursuing education and training in accordance with the goals of this section. The department shall apply the funds through the Competitive Skills Scholarship Program under section 2033 and rules adopted under that section and may transfer funds to the Competitive Skills Scholarship Fund. The department shall adopt or amend rules under section 2033 to ensure the use of such funds is consistent with the purposes of this section.

D. The department shall apply funds in the fund received from sources other than pursuant to Title 35-A, section 10009 in accordance with any applicable requirements or limitations placed on the use of such funds. In the absence of any contrary requirements, the department shall apply the funds in the same manner as prescribed in this subsection for funds received pursuant to Title 35-A, section 10009, and may expend up to 20% on grants in accordance with paragraph A, up to 2% on administrative costs pursuant to paragraph B and the remainder on direct support to individuals pursuing education and training pursuant to paragraph C.

Sec. D-2. Department of Labor recommendations. The Department of Labor, in consultation with the stakeholders listed in the Maine Revised Statutes, Title 26, section 2041, subsection 3, shall make recommendations to the Department of Professional and Financial Regulation for the report that the Department of Professional and Financial Regulation is required to prepare pursuant to Resolves 2007, chapter 219.

PART E

Sec. E-1. 30-A MRSA §703, sub-§2, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

2. State. Counties may apply for and accept and expend state grants for any purpose for which state grants are available to counties, either directly or through a state agency and may seek assistance from Efficiency Maine pursuant to Title 35-A, chapter 97.

Sec. E-2. 30-A MRSA §903, sub-§1, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

1. Agreement with energy service and 3rd-party financing companies. County commissioners may enter into an agreement with a private party, such as an energy service or 3rd-party financing company, for the design, installation, operation, maintenance and financing of energy conservation, distributed renewable energy technology, effective load management or combined energy conservation and air quality improvements at county facilities. County commissioners may seek assistance from Efficiency Maine under Title 35-A, chapter 97 for the purposes of this section. For purposes of this subsection, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

Sec. E-3. 30-A MRSA §903-B is enacted to read:

§ 903-B. Improvement of energy efficiency and usage of distributed renewable energy technology in construction of county buildings

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

B. "Green design building standard" has the same meaning as in Title 5, section 1764-A.

C. "Substantially renovated" means a renovation for which the cost exceeds 20% of the building's current value prior to renovation.

2. Planning and design. A county shall require that all planning and design for the construction of new or substantially renovated county-owned or county-leased buildings and buildings built or substantially renovated with county funds, including buildings funded through county bonds or the Maine Municipal Bond Bank:

A. Involve consideration of architectural designs and energy systems, including distributed renewable energy technology and load management systems, that show the greatest net benefit over the life of the building by minimizing long-term energy and operating costs;

B. Include an energy-use target that exceeds the greater of 20% above the energy efficiency standards in effect for commercial and institutional buildings pursuant to Title 10, chapter 1103 and the green design building standard most closely related to the building and project type. This paragraph applies only if the life-cycle cost of meeting the requirements of this paragraph does not exceed the life-cycle cost of a reasonable alternative design that is less environmentally efficient; and

C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a minimum of 30 years and that explicitly includes the public health and environmental benefits associated with energy-efficient building design and construction, to the extent they can be reasonably quantified.

This subsection does not apply to buildings that the county determines will have little or no energy usage, such as unheated sheds or warehouses.

3. Approval. A county may not approve the construction of a new or substantially renovated county-owned or county-leased building or of a building built or substantially renovated with county funds, including a building funded through county bonds or the Maine Municipal Bond Bank, unless the county agency or other entity or organization proposing the construction demonstrates that it has duly considered the most energy-efficient and environmentally efficient designs suitable in accordance with this section and that the proposed construction project meets the standards described in subsection 2, paragraph B.

4. State funding. Nothing in this section requires a county to construct or renovate any building. To the extent that any provision of this section requires a county to expand or modify its activities so as to necessitate additional expenditures from local revenues, the county is not required to comply with that provision unless the State provides annually at least 90% of the funding for those additional expenditures. If the State or a state agency, including but not limited to Efficiency Maine as established in Title 35-A, chapter 97, provides funding to assist a county in achieving the purposes of this section, the State or state agency may condition its funding on agreement by the county to repay that funding from a portion of the long-term energy savings resulting from meeting the requirements of this section.

PART F

Sec. F-1. 30-A MRSA §4741, sub-§15, as amended by PL 1991, c. 871, §2, is further amended to read:

15. State weatherization, conservation and fuel assistance agency. The Maine State Housing Authority is designated the weatherization, energy conservation and fuel assistance agency for the State and may apply for, receive, distribute and administer federal funds on behalf of the State for weatherization, energy conservation and fuel assistance pursuant to the Weatherization Assistance for Low-income Persons Program administered through the United States Department of Energy and the Low-income Home Energy Assistance Program administered through the United States Department of Health and Human Services in accordance with rules adopted under the Maine Administrative Procedure Act. The Maine State Housing Authority shall comply with the requirements of Title 35-A, chapter 97, subchapter 2 in carrying out its duties under this subsection;

Sec. F-2. 30-A MRSA §4748 is enacted to read:

§ 4748. Efficiency standards

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

B. "Green design building standard" has the same meaning as in Title 5, section 1764-A as applied to the relevant class of building.

C. "Low-income rental housing" means residential housing projects in which any of the units are subject to federal or state income eligibility restrictions and the rents within the projects are controlled, regulated or assisted by a federal or state agency pursuant to a regulatory or rental assistance agreement.

2. New construction. Low-income rental housing constructed after the effective date of this section must meet the green design building standard.

3. Existing buildings. By December 31, 2018, all low-income rental housing must meet the green design building standard for existing buildings. The Maine State Housing Authority may exempt a building from this requirement if the owner demonstrates that the Maine State Housing Authority, Efficiency Maine, as established in Title 35-A, chapter 97, or any other entity has not provided adequate assistance to allow the building to meet the standard without decreasing the building's economic viability for the owner and any investors and, in the case of for-profit low-income rental housing, its profitability, and that, from the perspective of the owner and any investors, no reasonable option exists to make the project as cost-effective and, in the case of for-profit developments, as profitable as it would be if it did not meet that standard.

To the extent that any provision of this subsection requires a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenues, the local unit of government is not required to comply with that provision unless the State provides annually at least 90% of the funding for those additional expenditures. If the State or a state agency, including but not limited to Efficiency Maine, provides funding to assist a local unit of government in achieving the purposes of this subsection, the State or state agency may condition its funding on agreement by the local unit of government to repay that funding from a portion of the long-term energy savings resulting from meeting the requirements of this subsection.

4. Rental assistance programs. After the effective date of this section, to the extent permitted by federal law, a housing authority shall condition a landlord's participation in the Housing Choice Voucher program administered by the United States Department of Housing and Urban Development, and the Department of Health and Human Services shall condition a landlord's participation in the bridging rental assistance program, on the landlord's:

A. Permitting an evaluation, conducted or approved and funded by Efficiency Maine, as established in Title 35-A, chapter 97, or the Maine State Housing Authority or, at the landlord's election, funded by other means and approved by the Maine State Housing Authority, of all energy efficiency, load reduction and distributed renewable energy technology measures that could be adopted or installed by the landlord and that have a payback period of 15 years or less; and

B. Adopting or installing those measures identified pursuant to paragraph A, to the extent such adoption or installation does not entail any encumbrance of the property or debt for the landlord, or otherwise undermine the building's profitability or suitability for the landlord's intended purposes.

Sec. F-3. 30-A MRSA §4991, first ¶, as enacted by PL 1991, c. 622, Pt. J, §23 and affected by §25, is amended to read:

The Maine State Housing Authority shall administer a fuel assistance program as provided in this subchapter and, pursuant to Title 35-A, chapter 97, shall, in consultation with Efficiency Maine, apply for a waiver of the cap on federal Low-income Home Energy Assistance Program funds that can be used for heat demand reduction. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

Sec. F-4. 30-A MRSA §4992, sub-§4, as enacted by PL 1991, c. 622, Pt. J, §23 and affected by §25, is amended to read:

4. Availability standards. Standards requiring local program operators and administrators to be available to the general public for a minimum specified period of time each week; and

Sec. F-5. 30-A MRSA §4992, sub-§5, as enacted by PL 1991, c. 622, Pt. J, §23 and affected by §25, is amended to read:

5. Expeditious provision of assistance standards. Standards that ensure that qualified program recipients are expeditiously provided with assistance by the local program operator or administrator; and

Sec. F-6. 30-A MRSA §4992, sub-§6 is enacted to read:

6. Compliance with Efficiency Maine. Standards that ensure compliance with the provisions of Title 35-A, chapter 97.

PART G

Sec. G-1. 30-A MRSA c. 187, sub-c. 4-A is enacted to read:

SUBCHAPTER 4-A

PUBLIC BUILDINGS

§ 4421. Improvement of energy efficiency and usage of distributed renewable energy technology in construction of municipal buildings

1. Limitations on home rule authority. This subchapter provides express limitations on municipal home rule authority.

2. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

B. "Green design building standard" has the same meaning as in Title 5, section 1764-A.

C. "Substantially renovated" means any renovation for which the cost exceeds 20% of the building's current value prior to renovation.

3. Planning and design. A municipality shall require that all planning and design for the construction of new or substantially renovated municipally owned or municipally leased buildings and buildings built or substantially renovated with municipal funds, including buildings funded through municipal bonds or the Maine Municipal Bond Bank:

A. Involve consideration of architectural designs and energy systems, including distributed renewable energy technology and load management systems, that show the greatest net benefit over the life of the building by minimizing long-term energy and operating costs;

B. Include an energy-use target that exceeds the greater of 20% above the energy efficiency standards in effect for commercial and institutional buildings pursuant to Title 10, chapter 1103 and the green design building standard most closely related to the building and project type. This paragraph applies only if the life-cycle cost of meeting the requirements of this paragraph does not exceed the life-cycle cost of a reasonable alternative design that is less environmentally efficient; and

C. Include a life-cycle cost analysis that explicitly considers cost and benefits over a minimum of 30 years and that explicitly includes the public health and environmental benefits associated with energy-efficient building design and construction, to the extent they can be reasonably quantified.

This subsection does not apply to buildings that the municipality determines will have little or no energy usage, such as unheated sheds or warehouses.

4. Approval. A municipality may not approve the construction of a new or substantially renovated municipally owned or municipally leased building or of a building built or substantially renovated with municipal funds, including a building funded through municipal bonds or the Maine Municipal Bond Bank, unless the requirements of subsection 3 are met.

5. State funding. Nothing in this section requires a local unit of government to construct or renovate any building. To the extent that any provision of this section requires a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenues, the local unit of government is not required to comply with that provision unless the State provides annually at least 90% of the funding for those additional expenditures. If the State or a state agency, including but not limited to Efficiency Maine, provides funding to assist a local unit of government in achieving the purposes of this section, the State or state agency may condition its funding on agreement by the local unit of government to repay that funding from a portion of the long-term energy savings resulting from meeting the requirements of this section.

Sec. G-2. 30-A MRSA §5725, sub-§12, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

12. Youth commission. Provide for a local youth commission; and

Sec. G-3. 30-A MRSA §5725, sub-§13, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

13. Anti-poverty community action program. Assist and contribute to a community action program organized under the Federal Anti-Poverty Program; and

Sec. G-4. 30-A MRSA §5725, sub-§14 is enacted to read:

14. Energy-related assistance. Assist property owners and renters in lowering energy costs by increasing energy efficiency, adopting conservation and load management measures and installing distributed renewable energy technology. A municipality may make loans to the individual or entity making the improvements that are unsecured by any lien on the individual's or entity's property. A municipality may integrate collection of payments due with the collection of property tax on that property, but any payments made under such an arrangement must first be applied to any unpaid property tax balance, and the municipality has no rights regarding the loan beyond those of an ordinary creditor. A municipality may partner with Efficiency Maine pursuant to Title 35-A, chapter 97 to administer any program pursuant to this subsection. For purposes of this subsection, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

PART H

Sec. H-1. 30-A MRS §5953-C, as amended by PL 2007, c. 66, §1, is further amended to read:

§ 5953-C. Loans for energy efficiency and distributed renewable energy technology improvements in municipal and school buildings

This section establishes a program to promote energy efficiency, increased use of distributed renewable energy technology, effective load management and indoor air quality in municipal and school buildings. As used in this section, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

1. Efficiency Partners Program. ~~The bank shall establish the Efficiency Partners Program, referred to in this section as "the program," designed~~is established to reduce net energy costs in municipal and school buildings and to create jobs by financing energy audits and cost-effective improvements that accomplish energy efficiency, increased use of distributed renewable energy technology and effective load management, while maintaining healthful indoor air quality. ~~The bank~~The program is administered as a partnership between Efficiency Maine, as established in Title 35-A, chapter 97, and the bank. The bank shall provide financial expertise and program capital and approve all financial transactions under the program. Efficiency Maine shall administer other aspects of the program relating to the application and use of distributed renewable energy technology and effective load management measures. The specific division of responsibilities and funding for administration of the program between the bank and Efficiency Maine shall be established by written agreement between the entities on commercially reasonable terms consistent with the requirements of this section and any other applicable provision of law. Both entities shall ensure smooth integration of the program with other programs and measures adopted by Efficiency Maine. Efficiency Maine shall issue a request for proposals for energy audits of municipal and school buildings and for energy savings that could be achieved through cost-effective usage of distributed renewable energy technology and improvements to load management, heating and cooling systems, windows, insulation, lighting and equipment in municipal and school buildings. Identification of cost-effective improvements to achieve net energy savings under the program must be based on a comprehensive energy audit that has been performed within the previous 5 years by a professional engineer licensed in this State who had no expectation at the time of the audit of receiving further compensation for work related to implementing any recommendations made. An energy audit that is financed under the program or is the basis for cost-effective energy efficiency improvements financed under the program must address compliance with the model building energy codeMaine Uniform Building and Energy Code adopted by the Public Utilities Commission pursuant to Title 35-A, section 121 pursuant to Title 10, chapter 1103.

2. Access to the program. Municipalities and school administrative units may have access to the program regardless of whether the municipality or school administrative unit utilizes a loan pursuant to this section to finance an energy audit or cost-effective energy efficiency improvements.

3. Proposals; contracts. ~~The bank~~Efficiency Maine, as established in Title 35-A, chapter 97, shall solicit proposals from energy service companies and individual vendors of energy service products. Notwithstanding any provision of the law regarding bidding requirements, the bank ~~and Efficiency Maine~~ shall contract with an energy service company or companies or vendor or vendors to provide energy services in municipal and school buildings under the program. ~~Whenever the bid proposals received are substantially equivalent, the bank shall in the contract process select an in-state energy service company or vendor whose primary place of business is within this State. A contract must meet applicable requirements of Title 35-A, chapter 97 and may apportion forward capacity market payments administered by the regional transmission organization or other capacity payments among project partners.~~ For public school projects, bid proposals for energy efficiency improvements must include plans and specifications that are adequate to permit review by the agencies listed under Title 20-A, section 15903, subsection 3 and that bear the stamp of a licensed professional engineer or licensed architect. The agencies listed in Title 20-A, section 15903, subsection 3 shall review the plans and specifications and approve or disapprove them within a reasonable time period.

4. Loan; loan agreements. Loans from the bank for ~~energy efficiency~~energy-related improvements must be structured to ensure to the greatest extent possible that the cost savings achieved by the energy efficiency improvements are sufficient to cover the loan and ultimately to achieve a net positive cash flow ~~as early as practical~~. The rate of interest charged for loans made through the program for energy efficiency improvements or energy audits must be below the currently available rate of interest charged on commercial loans of equivalent term and use.

5. Energy Payment Equalization Fund. The bank shall establish a fund called the Energy Payment Equalization Fund. To the extent that the fund has assets available to it through funding by federal, state or local governments, or grants, gifts, donations or payments from any other source, money in the fund may be applied to loans made to municipalities in the program if achieved energy savings are not sufficient to offset the debt service payments on a loan made through the program. This fund may include deposits made by energy service companies or vendors to guarantee their commitment to achieve energy savings sufficient to offset debt service payments but may not include any other donations or payments from vendors or interested parties. The fund may be used to provide general interest rate reductions or principal reductions on any loan or group of loans made under the program for energy audits or for energy efficiency improvements regardless of energy cost savings that may be achieved through the use of the proceeds of the loans or loan.

6. Report to the Legislature. Beginning in 2008, the bank shall report annually by March 1st to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters regarding the program. Beginning in 2010, Efficiency Maine, as established in Title 35-A, chapter 97, shall report jointly with the bank. The report must document program activity during the prior 12 months, including, but not limited to, contracts made with energy service companies or vendors, loans made to municipalities or school administrative units, energy audits conducted and energy efficiency improvements implemented.

Sec. H-2. 30-A MRSA §5954-A, sub-§1, as amended by PL 2005, c. 190, §1, is further amended to read:

1. Authority. In addition to its other enumerated powers, but subject to the limitations imposed under subsection 2, the bank, on behalf of or in partnership with one or more governmental units or nonprofit corporations organized under the Internal Revenue Code, Section 501, may aggregate governmental units and nonprofit corporations to purchase in bulk electricity, petroleum products, fuel oil and, natural gas and the services of energy service companies and individual vendors of energy service products.

Sec. H-3. 30-A MRSA §6006-A, sub-§6 is enacted to read:

6. Consultation with Efficiency Maine. The bank shall consult and coordinate with Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds expended or used under this section maximize advancement of state policies regarding energy efficiency, load management and use of distributed renewable energy technology. As used in this subsection, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

Sec. H-4. 30-A MRSA §6006-B, sub-§6 is enacted to read:

6. Consultation with Efficiency Maine. The bank shall consult and coordinate with Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds expended or used under this section maximize advancement of state policies regarding energy efficiency, load management and use of distributed renewable energy technology. As used in this subsection, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

Sec. H-5. 30-A MRSA §6006-C, sub-§6 is enacted to read:

6. Consultation with Efficiency Maine. The bank shall consult and coordinate with Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds expended or used under this section maximize advancement of state policies regarding energy efficiency, load management and use of distributed renewable energy technology. As used in this subsection, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

Sec. H-6. 30-A MRSA §6006-D, sub-§4 is enacted to read:

4. Consultation with Efficiency Maine. The bank shall consult and coordinate with Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds expended or used under this section maximize advancement of state policies regarding energy efficiency, load management and use of distributed renewable energy technology. As used in this subsection, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

Sec. H-7. 30-A MRSA §6006-E, as amended by PL 1999, c. 81, §15, is further amended to read:

§ 6006-E. Maine school facilities finance lease-purchase program

In addition to and in furtherance of any other assistance available to a school administrative unit in this chapter, the bank, in cooperation with the Department of Education, shall establish a lease-purchase program for buildings to be used by all school administrative units whose school facility lease-

purchase payments receive reimbursement, subsidy or other payment from the State. For the purposes of this section, a lease-purchase program is a system for awarding leases for a school administrative unit pursuant to a competitive bidding process. The bank shall consult and coordinate with Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds expended or used under this section maximize advancement of state policies regarding energy efficiency, load management and use of distributed renewable energy technology. As used in this section, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

Sec. H-8. 30-A MRSA §6006-F, sub-§9 is enacted to read:

9. Consultation with Efficiency Maine. The bank shall consult and coordinate with Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds expended or used under this section maximize advancement of state policies regarding energy efficiency, load management and use of distributed renewable energy technology. As used in this subsection, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

Sec. H-9. 30-A MRSA §6007, sub-§3 is enacted to read:

3. Consultation with Efficiency Maine. The bank shall consult and coordinate with Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds expended or used under this section maximize advancement of state policies regarding energy efficiency, load management and use of distributed renewable energy technology. As used in this subsection, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

Sec. H-10. 30-A MRSA §6008, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

§ 6008. Additional reserves and funds

The bank may establish any additional and further reserves or any other funds or accounts that are, in its discretion, necessary, desirable or convenient to further the accomplishment of the purposes of the bank to comply with the provisions of any agreement made by or any resolution of the bank. The bank shall consult and coordinate with Efficiency Maine, as established in Title 35-A, chapter 97, to ensure that funds expended or used under this section maximize advancement of state policies regarding energy efficiency, load management and use of distributed renewable energy technology. As used in this section, "distributed renewable energy technology" has the same meaning as in Title 35-A, section 102, subsection 4-A.

PART I

Sec. I-1. 35-A MRSA §102, sub-§4-A is enacted to read:

4-A. Distributed renewable energy technology. "Distributed renewable energy technology" means a product or facility or cluster of products or facilities that has a generating capacity of not more than 5 megawatts or an equivalent amount of heat energy and either generates energy in a manner that results in no carbon dioxide emissions or that relies on one or more of the following:

- A. Fuel cells;
- B. Tidal power;
- C. Solar arrays and installations;
- D. Wind power installations;
- E. Geothermal installations;
- F. Hydroelectric generators;
- G. Electric thermal storage; or
- H. Air source heat pumps.

Sec. I-2. 35-A MRSA §102, sub-§4-B is enacted to read:

4-B. Efficiency Maine. "Efficiency Maine" means the entity established in section 10103 and includes the administrator of that entity.

Sec. I-3. 35-A MRSA §103, sub-§2, ¶E is enacted to read:

E. The chair of the commission is a member of the board of Efficiency Maine and the commission shall regulate the administrator of Efficiency Maine to the extent provided by law.

Sec. I-4. 35-A MRSA §103, sub-§2, ¶F is enacted to read:

F. The commission shall regulate appliances in accordance with chapter 99.

Sec. I-5. 35-A MRSA §702, sub-§2, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

2. Distributed renewable energy technology. No public utility providing electric or gas service may consider the use of ~~solar energy~~distributed renewable energy technology by a customer as a basis for establishing higher rates or charges for energy or service sold to the customer.

Sec. I-6. 35-A MRSA §702-A is enacted to read:

§ 702-A. Cooperation with Efficiency Maine and energy service providers

1. Definition; rules. For purposes of this section, "eligible entities" means Efficiency Maine and other entities designated by rules adopted by the commission, including but not limited to energy service providers and entities providing financing for construction that meets the green design building standard as defined in Title 5, section 1764-A. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

2. In general. A transmission and distribution utility or a gas utility shall cooperate and coordinate with eligible entities in ensuring that ratepayers have an opportunity to benefit from increased energy efficiency or conservation, effective load management and installation of distributed renewable energy technology.

3. Partnership on projects. A transmission and distribution utility or a gas utility shall inform Efficiency Maine of any program or measure it proposes to adopt to promote energy efficiency or conservation or distributed renewable energy technology and shall propose terms on which Efficiency Maine may become a partner in the program or measure. Efficiency Maine may fund the program or measure in whole or in part, but in no instance may the cost of such a program or measure be passed through to ratepayers, except insofar as the cost of credits purchased under section 10009 is passed on to ratepayers. A transmission and distribution utility or a gas utility shall inform Efficiency Maine of any program or measure it proposes to adopt to promote effective load management and may propose terms on which Efficiency Maine may become a partner in the program or measure.

4. Access to billing system. A transmission and distribution utility or a gas utility shall permit eligible entities to make use of its billing system to collect amounts due from ratepayers for energy efficiency and conservation, load management and distributed renewable energy technology products and services. Such use of a utility's billing system must be on commercially reasonable terms, and a utility may require that any payment made by the ratepayer be applied first to its obligations to the utility.

5. Distribution of information. A transmission and distribution utility or a gas utility shall permit Efficiency Maine to distribute information of a technical nature about its programs and measures or about steps ratepayers may take to increase energy efficiency or conservation, effective load management or adoption of distributed renewable energy technology. Such use of the billing system must be on commercially reasonable terms. Information distributed may not express any viewpoint, unless the utility agrees to distribute information that expresses a viewpoint, or otherwise be designed so that compelled distribution of the information would infringe on a utility's rights to free speech and association under the Fourteenth Amendment to the United States Constitution.

6. Cooperation in gathering and analyzing data. A transmission and distribution utility or a gas utility shall cooperate with Efficiency Maine and with the commission in providing information from the utility's operations and other sources to evaluate Efficiency Maine's performance and to effectuate the purposes of chapter 97. To the extent that information provided is designated confidential by statute or is otherwise exempt from the definition of "public records" under Title 1, section 402, Efficiency Maine and the commission shall treat the information as confidential, and such information does not become a public record merely by virtue of being in the possession of Efficiency Maine or the commission. Efficiency Maine and the commission shall ensure transparency by means other than public disclosure of such information when such information is considered or used by Efficiency Maine or the commission in undertaking its functions under law.

Sec. I-7. 35-A MRSA §1302, sub-§3, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

3. Complaint by utility, Efficiency Maine or commission. The commission may institute or Efficiency Maine or any public utility may make complaint as to any matter affecting its own product, service or charges. The complaint ~~shall~~must be processed in accordance with subsection 2.

Sec. I-8. 35-A MRSA §1311-B, as enacted by PL 2001, c. 135, §1, is amended to read:

§ 1311-B. Security of certain information

1. Designation of information as confidential. If the commission, on its own motion or on petition of any person or entity, determines that public access to specific information about public utility or Efficiency Maine technical operations in the State could compromise the security of public utility systems to the detriment of the public interest, the commission shall issue an order designating that information as confidential. Information designated as confidential pursuant to this section may include, but is not limited to, emergency response plans and network diagrams. Information designated as confidential under this section is not a public record under Title 1, section 402, subsection 3.

2. Treatment of information by commission; generally. Except as otherwise provided in this section, the commission may not release information designated as confidential under subsection 1 and shall take appropriate steps to protect such information in its possession.

3. Access to information by parties in proceeding. Designation of information as confidential under subsection 1 does not limit the right of a party in a proceeding before the commission to obtain discovery of that information. Notwithstanding section 1311-A, subsection 1, paragraphs A and C, the commission may issue a protective order limiting discovery of information designated as confidential pursuant to subsection 1 if the commission finds that specific limits are necessary to protect the public interest.

4. Release of information to other state agencies. The commission may release information designated as confidential pursuant to subsection 1 or require the release of that information by a public utility or Efficiency Maine to another state agency to the extent necessary to support emergency preparedness or response, law enforcement or other public health and safety activities. The commission shall consult with a public utility or Efficiency Maine before releasing or requiring the release of confidential information about that utility or Efficiency Maine, respectively, to a state agency unless the commission determines that the public health and welfare require immediate release without such consultation. The commission shall notify a public utility or Efficiency Maine within 2 business days of providing information about that utility or Efficiency Maine to a state agency pursuant to this subsection. As soon as practicable after receiving notice from a state agency pursuant to subsection 5, paragraph B of the agency's intent to release the information, the commission shall notify the public utility or Efficiency Maine of the agency's intent.

5. Release by other state agencies. A state agency that receives information about a public utility or Efficiency Maine pursuant to subsection 4:

A. May not use that information for any purpose other than for the support of emergency preparedness or response, law enforcement or other public health and safety activities;

B. May not release that information to any other person or entity without prior notice to the commission unless the agency determines that immediate release of the information to one or more persons or entities is necessary for the protection of public health and safety; and

C. Shall, when finished with the use of any documents received from the commission or from a public utility or from Efficiency Maine pursuant to subsection 4, return the documents to the commission or, the public utility or Efficiency Maine, as appropriate.

Sec. I-9. 35-A MRSA §1508-A, sub-§1, ¶E is enacted to read:

E. In addition to the administrative penalties authorized by this subsection, the commission shall award reasonable costs, including reasonable attorney's fees, to Efficiency Maine if Efficiency Maine brought the complaint resulting in the imposition of such administrative penalties.

Sec. I-10. 35-A MRSA §1702, sub-§1, ¶B, as amended by PL 1999, c. 398, Pt. A, §24 and affected by §§104 and 105, is further amended to read:

B. The reasonableness and adequacy of the service furnished or proposed to be furnished by any public utility or, competitive service provider or the administrator of Efficiency Maine;

Sec. I-11. 35-A MRSA §1702, sub-§1, ¶E, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

E. Terms and conditions of public utilities and the administrator of Efficiency Maine;

Sec. I-12. 35-A MRSA §1702, sub-§5, as amended by PL 1999, c. 398, Pt. A, §26 and affected by §§104 and 105, is further amended to read:

5. Intervention on behalf of public. The Public Advocate may, on behalf of the using and consuming public, or any particular group of consumers, petition to initiate, or intervene and appear in, any proceedings before the commission, appeals from orders of the commission; or proceedings before state and federal agencies and courts in which the subject matter of the action affects the customers of any utility or competitive service provider doing business in this State or the entities served by Efficiency Maine, except that the Public Advocate may not intervene in any proceeding in which the commission staff is representing a position substantially similar to that of the Public Advocate, as determined by the Public Advocate.

Sec. I-13. 35-A MRSA §2903, sub-§7, as amended by PL 1999, c. 398, Pt. A, §41 and affected by §§104 and 105, is further amended to read:

7. Public utility. "Public utility" means Efficiency Maine or any transmission and distribution utility, water utility or gas utility that is subject to the jurisdiction of the commission.

Sec. I-14. 35-A MRSA §3132, sub-§2-C is enacted to read:

2-C. Efficiency. The commission shall recommend to an applicant under this section for a new transmission line minimum standards of efficiency that are technically and economically feasible and that create no conflict with any legally mandated health or safety standards. The applicant must, as a

condition of obtaining a certificate of public convenience and necessity, certify that efficiency standards recommended by the commission have been considered and state the extent to which conformance with the recommended standards will be achieved. The commission may contract with the administrator of Efficiency Maine to develop recommended minimum standards of efficiency and may do so under terms that recognize the benefits resulting or likely to result from those minimum standards as discharging a portion of Efficiency Maine's obligations under section 10009, subsection 2, paragraph E and that treat such recognition as partial or full consideration for the administrator's fulfillment of its obligations under the contract.

Sec. I-15. 35-A MRSA §3195, sub-§1-A is enacted to read:

1-A. Decoupling with respect to peak load. The commission shall set for each transmission and distribution utility an annual target for peak load reduction that is not attributable to the activities of Efficiency Maine and shall establish a rate adjustment mechanism that decouples utility profits from utility sales with respect to peak load reduction.

PART J

Sec. J-1. 35-A MRSA §1508-A, sub-§1, ¶A, as enacted by PL 2003, c. 505, §23, is amended to read:

A. For willful violations of this Title, a commission rule or a commission order by a public utility or a competitive electricity provider, or a willful violation of section 10009, subsection 2 by a heating fuel wholesaler, the commission may impose an administrative penalty for each violation in an amount that does not exceed \$5,000 or .25% of the annual gross revenue that the public utility ~~or~~, the competitive electricity provider or the heating fuel wholesaler received from sales in the State, whichever amount is lower. Each day a violation continues constitutes a separate offense. The maximum administrative penalty for any related series of violations may not exceed \$500,000 or 5% of the annual gross revenue that the public utility ~~or~~, the competitive electricity provider or the heating fuel wholesaler received from sales in the State, whichever amount is lower.

Sec. J-2. 35-A MRSA §1508-A, sub-§1, ¶B, as enacted by PL 2003, c. 505, §23, is amended to read:

B. For a violation in which a public utility or a competitive electricity provider was explicitly notified by the commission that it was not in compliance with the requirements of this Title, a commission rule or a commission order or a violation in which a heating fuel wholesaler was explicitly notified by the commission that it was not in compliance with section 10009, and that failure to comply could result in the imposition of administrative penalties, the commission may impose an administrative penalty that does not exceed \$500,000.

Sec. J-3. 35-A MRSA §3210, sub-§3-A, ¶A, as corrected by RR 2007, c. 2, §20, is amended to read:

A. Except as provided in paragraph B, beginning January 1, 2008, as a condition of licensing pursuant to section 3203, each competitive electricity provider in this State must demonstrate in a manner satisfactory to the commission that the percentage of its portfolio of supply sources for retail electricity sales in this State accounted for by new renewable capacity resources is as follows:

- (1) One percent for the period from January 1, 2008 to December 31, 2008;
- (2) Two percent for the period from January 1, 2009 to December 31, 2009;
- (3) Three percent for the period from January 1, 2010 to December 31, 2010;
- (4) ~~Four~~Five percent for the period from January 1, 2011 to December 31, 2011;
- (5) ~~Five~~Seven percent for the period from January 1, 2012 to December 31, 2012;
- (6) ~~Six~~Nine percent for the period from January 1, 2013 to December 31, 2013;
- (7) ~~Seven~~Twelve percent for the period from January 1, 2014 to December 31, 2014;
- (8) ~~Eight~~Fifteen percent for the period from January 1, 2015 to December 31, 2015;
- (9) ~~Nine~~Nineteen percent for the period from January 1, 2016 to December 31, 2016; and
- (10) ~~Ten~~Twenty-three percent for the period from January 1, 2017 to December 31, 2017.

New renewable capacity resources used to satisfy the requirements of this paragraph may not be used to satisfy the requirements of subsection 3.

Sec. J-4. 35-A MRSA §3210, sub-§3-A, ¶B, as enacted by PL 2007, c. 403, §4, is amended to read:

B. Suspensions of scheduled increases in the portfolio requirements as provided in paragraph A are governed by this paragraph.

- (1) If by March 31st of the years 2010, 2012, 2014 and 2016 the commission determines that investment in new renewable capacity resources in the preceding 2 calendar years has not been sufficient for competitive electricity providers to meet the portfolio requirements under paragraph A and that the resulting use of renewable energy credits pursuant to subsection 8

or the alternative compliance payment mechanism pursuant to subsection 9, or both of these methods, has burdened electricity customers in the State without providing the benefits of new renewable capacity resources, the commission may suspend all or some of the future scheduled increases in the portfolio requirements under paragraph A.

(2) If the commission finds that alternative compliance payments are made pursuant to subsection 9 in 3 consecutive calendar years, the commission shall temporarily suspend all or some of the future scheduled increases in the portfolio requirements under paragraph A.

(3) If the commission suspends any scheduled increases in the portfolio requirements under paragraph A pursuant to subparagraph (1) or (2), the commission may resume increases, limited to no more than ~~one~~³ percentage ~~point~~^{points} per year over the previous year, in the portfolio requirements after a minimum of one year.

Sec. J-5. 35-A MRSA §3211-A, as amended by PL 2007, c. 317, §§3 to 13, is repealed.

Sec. J-6. 35-A MRSA §4711, as enacted by PL 2005, c. 110, §1, is repealed.

Sec. J-7. 35-A MRSA §10001, sub-§1, as enacted by PL 2003, c. 644, §9, is amended to read:

1. General. The commission shall provide to the public information about energy technologies and energy efficiency practices, including any state building energy standards and their implementation. The commission may contract with Efficiency Maine in discharging this duty. In providing public information, the commission shall consider:

- A. The aspects of energy technologies, energy efficiency practices and building energy standards and their implementation about which the public needs information;
- B. The most effective means of providing the information; and
- C. The members of the public who would most benefit from public information.

Sec. J-8. 35-A MRSA §10002, as enacted by PL 2003, c. 644, §9, is repealed.

Sec. J-9. 35-A MRSA §10003, as enacted by PL 2003, c. 644, §9, is repealed.

Sec. J-10. 35-A MRSA §10004, as enacted by PL 2003, c. 644, §9, is amended to read:

§ 10004. Federal energy programs

1. Administration of programs. ~~The commission~~Efficiency Maine shall administer:

- A. The United States Department of Energy State Energy Program; and
- B. ~~Other~~Except as otherwise provided by law, other federally funded programs related to functions that ~~the commission~~Efficiency Maine performs.

Sec. J-11. 35-A MRSA §10005, as enacted by PL 2003, c. 644, §9, is amended to read:

§ 10005. Energy Conservation Small Business Revolving Loan Program; Energy Conservation Small Business Revolving Loan Fund

1. Program and fund. ~~The commission~~Efficiency Maine shall implement the Energy Conservation Small Business Revolving Loan Program, referred to in this subsection as "the program," and the Energy Conservation Small Business Revolving Loan Fund, referred to in this subsection as "the fund." The fund consists of federal capitalization grants and awards made to the State for the purposes for which the fund is established; any amounts deposited by ~~the commission~~Efficiency Maine into the fund ~~from the conservation program fund established in section 3211-A, subsection 5;~~ principal and interest received from the repayment of loans made from the fund and any interest earned on investment of fund balances; and any other funds from any public or private source received for use of any of the purposes for which the fund is established. The fund is a nonlapsing revolving fund account.

A. ~~The commission~~Efficiency Maine shall credit all repayments of loans made to businesses, including interest, penalties and other fees and charges related to fund loans to the fund account.

B. Money in the fund not needed to meet the current obligations of the program must be deposited with the Treasurer of State to the credit of the fund account and may be invested in such manner as is provided by law. Interest received on that investment must be credited to the fund account.

C. At the end of each fiscal year, all unencumbered balances in the fund account ~~may~~must be carried forward to be used for the purposes specified in this subsection.

Sec. J-12. 35-A MRSA §10006, as enacted by PL 2005, c. 534, §2, is amended to read:

§ 10006. Energy efficiency of rental properties

1. Residential energy efficiency disclosure statement. ~~The commission and the~~The Maine State Housing Authority, in consultation with Efficiency Maine, shall prepare a residential energy efficiency disclosure statement form for landlords and other lessors of residential properties to use to disclose to tenants and lessees in compliance with Title 14, section 6030-C information about the energy efficiency of the property in order to comply with Title 14, section 6030-C, including a comparison with estimated residential energy efficiency for similar units in similar buildings that meet the standards of the Maine Uniform Building and Energy Code established under Title 10, chapter 1103 and, if Efficiency Maine and the Maine State Housing Authority determine appropriate, the green design building standard, as defined in Title 5, section 1764-A. ~~The commission and the~~The Maine State Housing Authority and Efficiency Maine shall post and maintain the statement required by this subsection on the Internet in a format that is easily accessible by the public.

2. Suggested energy efficiency standards. ~~The commission~~Efficiency Maine and the Maine State Housing Authority shall prepare suggested energy efficiency standards for landlords and other lessors of residential property that is used by the tenant or lessee as a primary residence. ~~The commission~~Efficiency Maine and the Maine State Housing Authority shall post and maintain the standards required by this subsection on the Internet in a format that is easily accessible by the public.

Sec. J-13. 35-A MRSA §10008, sub-§6, ¶A, as enacted by PL 2007, c. 317, §15, is amended to read:

A. The trust fund must be administered and expenditures authorized by a program Efficiency Maine's administrator selected by the trustees whose qualifications must include demonstrated expertise in the management of electricity efficiency programming and supervision of energy efficiency personnel. The administrator, who shall report to the trustees. The administrator Efficiency Maine shall hire and organize staff resources for the trustees.

Sec. J-14. 35-A MRSA §10008, sub-§6, ¶H, as enacted by PL 2007, c. 317, §15, is amended to read:

H. In order to minimize administrative costs and maximize program participation and effectiveness, the trustees and the commission shall, to the greatest extent feasible, coordinate the delivery of and make complementary the energy efficiency programs under this section, section 3211-A chapter 97, insofar as programs under that chapter relate to electricity, and section 3210-C.

Sec. J-15. 35-A MRSA §10009 is enacted to read:

§ 10009. Energy efficiency resource standard

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Administration fund" means the conservation administration fund established by the commission pursuant to subsection 7.

B. "Administrative costs" means costs of the commission and of Efficiency Maine's board members that are funded pursuant to and associated with the implementation of this section and chapter 97, including, but not limited to, costs of program planning and evaluation, costs of securing necessary expertise, costs associated with contract formation and administration and costs of monitoring and enforcing contractual obligations.

C. "Base quantity" means:

(1) With respect to a transmission and distribution utility or a gas utility, the total quantity of electric energy or natural gas delivered by the utility to retail customers in the State, other than natural gas delivered to a competitive electricity provider for purposes of electricity generation, during the most recent calendar year for which information is available; or

(2) With respect to a heating fuel wholesaler, the total quantity of home heating oil, kerosene or liquefied petroleum gas delivered for resale in the State through retail outlets and retailers, for the purpose of cooking or heating, during the most recent calendar year for which information is available.

D. "Combined heat and power savings" means the increment of electric output of a new combined heat and power system, combined cooling, heating and power system or similar technology that is attributable to the higher efficiency of the combined system as compared to the efficiency of separate production of the electric, cooling and thermal outputs, as determined in accordance with rules adopted by the commission. For purposes of this paragraph, "new combined heat and power system" means a system that uses the same energy source for the generation of electrical or mechanical power and the production of cooling or steam or another form of useful thermal energy, if:

(1) The facility at which the system is used meets requirements relating to efficiency and other operating characteristics established by the commission by rule;

(2) The net wholesale sales of electricity by the facility will not exceed 50% of total annual electric generation by the facility; and

(3) The facility commences operation after the effective date of this section.

E. "Customer facility savings" means a reduction in end-use electricity, natural gas or heating fuel consumption, including recycled energy savings, at a facility of an end-use consumer of electricity or natural gas served by a transmission and distribution utility or a gas utility, or of heating fuel, as compared to:

(1) Consumption at that facility during a base year, as determined in accordance with rules adopted by the commission;

(2) In the case of new equipment, regardless of whether the new equipment replaces existing equipment at the end of the useful life of the existing equipment, consumption by new equipment of average efficiency, as determined in accordance with rules adopted by the commission; or

(3) In the case of a new facility, consumption at a reference facility, as determined in accordance with rules adopted by the commission.

F. "Electricity savings" means, as determined in accordance with rules adopted by the commission:

(1) Customer facility savings of electricity consumption, adjusted to reflect any associated increase in fuel consumption at the facility;

(2) Customer facility reductions in demand on the electricity distribution system achieved through use of distributed renewable energy technology, adjusted to reflect any associated increase in fuel consumption at the facility;

(3) Reductions in distribution system losses of electricity achieved by a transmission and distribution utility, as compared to losses attributable to new or replacement distribution system equipment of average efficiency; and

(4) Combined heat and power savings.

G. "Heating fuel savings" means, as determined in accordance with rules adopted by the commission, customer facility savings of heating fuel consumption, adjusted to reflect any associated increase in other fuel or electricity consumption at the facility, except to the extent that the increased consumption results from use of distributed renewable energy technology.

H. "Heating fuel wholesaler" means a person that sells home heating oil, kerosene or liquefied petroleum gas for resale in the State through retail outlets and retailers, for the purpose of cooking or heating.

I. "Natural gas savings" means, as determined in accordance with rules adopted by the commission:

(1) Customer facility savings of natural gas, adjusted to reflect any associated increase in electricity or fuel consumption at the facility, except to the extent that the increased consumption results from use of distributed renewable energy technology; and

(2) Reductions in leakage, operational losses and natural gas fuel consumption in the operation of a gas distribution system achieved by a gas utility, as compared to similar losses during a base year.

J. "Recycled energy savings" means a reduction in electricity, natural gas or heating fuel consumption that is attributable to electrical or mechanical power, or both, or thermal energy, produced by modifying an industrial or commercial system that was in operation before the effective date of this section in order to recapture energy that would otherwise be wasted.

K. "Efficiency Trust Fund" means the Efficiency Trust Fund established under subsection 5.

2. Purchase of efficiency credits. For calendar year 2008 and each calendar year thereafter up to and including 2018, a transmission and distribution utility, gas utility or heating fuel wholesaler shall purchase from Efficiency Maine, not later than September 30th of the calendar year after the applicable calendar year, a number of efficiency credits as prescribed in this subsection

A. A transmission and distribution utility shall annually purchase credits equal to 15% of its base quantity. A credit for electricity has the value of one kilowatt hour and an initial cost of \$0.06 or 60% of the average retail cost per kilowatt hour of electricity delivered by the transmission and distribution utility, whichever is less, as determined by the commission.

B. A gas utility shall annually purchase credits equal to 15% of its base quantity. A credit for natural gas has the value of one therm and an initial cost of \$0.88.

C. A heating fuel wholesaler shall annually purchase credits equal to 8.25% of its base quantity. A credit for heating fuel has the value of one therm and an initial cost of \$0.88, and the commission shall publish the equivalent cost per gallon for home heating oil, kerosene and liquefied petroleum gas respectively.

D. By 60 days after the effective date of this paragraph, and by March 1st of each calendar year thereafter up to and including 2018, the commission shall publish adjusted costs for efficiency credits for the applicable calendar year, which must equal the lesser of:

(1) Sixty percent of the average retail cost in the State of the applicable energy type, such as electricity, natural gas, home heating oil, kerosene or liquefied petroleum gas, as determined in accordance with rules adopted by the commission, rounded to the nearest one-hundredth of a cent per credit; and

(2) The inflation-adjusted value of the applicable efficiency credit type, calculated to the nearest one-hundredth of a cent using the Consumer Price Index for Urban Wage Earners and Clerical Workers, or a successor index, for the 12 months prior to January 1st of the applicable year, as calculated by the United States Department of Labor.

E. By December 31, 2019, Efficiency Maine shall achieve electricity savings, natural gas savings and heating fuel savings equal to at least the amount of credits for efficiency purchased for each energy source and verified in accordance with subsection 3. Efficiency Maine shall meet annual benchmarks toward that goal. The contract with the administrator of Efficiency Maine under section 10106 must establish and require the administrator to meet the benchmarks.

F. Efficiency Maine may retain any forward capacity market payments administered by the regional transmission organization or other capacity payments that may be attributable to projects funded in any measure by Efficiency Maine, except to the extent that Efficiency Maine assigns some portion of such payments to another individual or entity.

3. Measurement and verification of savings. Not later than 6 months after the effective date of this section, the commission shall adopt rules regarding measurement and verification of electricity savings, natural gas savings and heating fuel savings under this section, including:

A. Procedures and standards for defining and measuring electricity savings, natural gas savings and heating fuel savings reported by Efficiency Maine, which must:

(1) Specify the types of energy efficiency and energy conservation measures that will be eligible for the credits;

(2) Require that energy consumption estimates for customer facilities or portions of facilities in the applicable base and current years be adjusted, as appropriate, to account for changes in weather, level of production and relevant facility area;

(3) Account for the useful life of electricity savings measures;

(4) Include deemed savings values for specific, commonly used efficiency measures; and

(5) Exclude savings that are not properly attributable to measures carried out by Efficiency Maine or on behalf of Efficiency Maine; and

B. Procedures and standards for 3rd-party verification of reported electricity savings, natural gas savings and heating fuel savings.

4. Enforcement. A transmission and distribution utility, gas utility or heating fuel wholesaler that fails to make timely purchase of all the efficiency credits it is required to purchase under this section is liable to Efficiency Maine for the cost of the unpurchased credits, for interest at a rate set by rule by the commission to reflect market rates and for any reasonable costs of collection, including costs of suit and reasonable attorney's fees, whether incurred in litigation or not.

5. Funds held in trust. The Efficiency Trust Fund is established as a nonlapsing fund to carry out the purposes of Efficiency Maine. The fund is administered by the board of Efficiency Maine. Money in the fund not currently needed to meet obligations under chapter 97 or other laws administered by Efficiency Maine must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on these investments must be credited to the fund. The State may not assess any indirect charges on the fund or any revenue received by the fund. All funds collected pursuant to this section, however allocated, including forward capacity market payments administered by the regional transmission organization or other capacity payments that may be attributable to projects funded in any measure by Efficiency Maine with funds collected pursuant to this section, are collected under the authority of this section and for the purposes of chapter 97 and are held in trust for the purposes of benefiting electricity, natural gas and heating fuel consumers. These funds are not available to meet the general obligations of the State and may not be taxed by the State. The State pledges to, contracts with and agrees with the purchasers of efficiency credits and their customers who are beneficiaries of funds under this chapter that neither the State nor any of its agencies, including the commission, may limit, alter, amend, reduce or impair the trust, its funds or any rights under the trust or ownership of the trust or security interest in the trust. The State acknowledges that such owners, holders and beneficiaries may and will rely on this pledge, contract and agreement and that any such limitation, alteration, amendment, reduction or impairment without adequate provision will irreparably harm such owners, holders and beneficiaries.

6. Ratemaking and cost recovery. As determined by the commission, the assessments charged to transmission and distribution utilities and gas utilities under this section are just and reasonable costs for rate-making purposes and must be reflected in their rates. In making its determination, the commission shall take into account the State and federal tax treatment of the assessments.

7. Conservation administration fund; report. The commission shall establish a conservation administration fund to be used solely to defray administrative costs under this section and under chapter 97, shall assess Efficiency Maine in an amount not to exceed \$1,300,000 in any fiscal year and shall deposit funds collected pursuant to this subsection into the conservation administration fund. Any interest on funds in the conservation administration fund must be credited to the conservation administration fund and any funds unspent in any fiscal year must either remain in the conservation administration fund to be used to defray administrative costs or be transferred to the Efficiency Trust Fund.

The commission shall report by December 1st of each year to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters an accounting of total deposits into and expenditures from the conservation administration fund during the prior 12 months and projected deposits into and expenditures from the conservation administration fund during the next 12 months.

8. Support for Energy Resources Council. Notwithstanding any other provision of this section, the Energy Resources Council established under Title 5, section 3327 may apply to the commission for funding from the conservation administration fund under subsection 7 to support projects and activities of the council related to energy conservation. The commission may provide up to \$200,000 in any fiscal year to the council from the conservation administration fund if the funds are needed for particular projects or activities directed by the Legislature to be undertaken by the council or the commission finds the projects or activities are generally consistent with the overall purposes of this section.

9. Support for Maine Energy Conservation Board. Notwithstanding any other provision of this section, the Maine Energy Conservation Board established under section 10007 may apply to the commission for funding from the conservation administration fund under subsection 7 for staff support for the board.

10. Rules. The commission shall adopt rules necessary to implement this section. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

PART K

Sec. K-1. 5 MRSA §12004-G, sub-§10-C is enacted to read:

10-C.

Energy

<u>Efficiency</u>	<u>Expenses</u>	<u>35-A MRSA</u>
<u>Maine</u>	<u>Only</u>	<u>§10103</u>

Sec. K-2. 10 MRSA §963-A, sub-§10, ¶R, as corrected by RR 1999, c. 1, §8, is amended to read:

R. Any paper industry job retention project; and

Sec. K-3. 10 MRSA §963-A, sub-§10, ¶S, as reallocated by RR 1999, c. 1, §9, is amended to read:

S. Any transmission facilities project; and

Sec. K-4. 10 MRSA §963-A, sub-§10, ¶T is enacted to read:

T. An Efficiency Maine project.

Sec. K-5. 10 MRSA §963-A, sub-§10-A is enacted to read:

10-A. Efficiency Maine project. "Efficiency Maine project" means a project approved by the board of Efficiency Maine, as established in Title 35-A, section 10105, to carry out the purposes of Title 35-A, chapter 97 relating to increasing gas, heat or electric energy efficiency or conservation, distributed renewable energy technology as defined in Title 35-A, section 102, subsection 4-A or effective load management.

Sec. K-6. 10 MRSA §1043, sub-§2, ¶K, as amended by PL 2003, c. 506, §3, is further amended to read:

K. In the case of a paper industry job retention project, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of revenues and collateral pledged to the repayment of those securities. To assist in making its determination the authority may engage, at the borrower's expense, independent consultants to assist in the evaluation of the project. In making this determination, the authority shall consider factors it considers necessary to measure and evaluate the sufficiency of the pledged revenues to repay the securities, including:

(1) Whether individuals or entities obligated to repay the securities have demonstrated sufficient revenues from the project or from other sources to repay the securities and a strong probability that those revenues will continue to be available for the term of the securities;

(2) Whether the applicant demonstrates a strong probability that the project will continue to operate and to provide the public benefits projected to be created for the term of the securities;

(3) Whether the applicant demonstrates that the benefits projected to be created by the project are enhanced through the use of financial assistance from the authority;

(4) Whether the applicant's creditworthiness is demonstrated by such factors as historical financial performance, management ability and the applicant's plan for marketing products or service and its ability to access conventional financing;

(5) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry. In assessing projected financial performance, the authority must consider the value and effect of any contractual labor cost reductions that will be in effect at the time the financial assistance is provided;

(6) Whether collateral securing the repayment obligation, valued in place and in use, is reasonably sufficient under the circumstances;

(7) Whether the owner will make an important equity contribution to the project. If the applicant requests financing assistance from the authority in an amount greater than \$25,000,000, the amount financed by the authority may not exceed \$25,000,000 plus 50% of the total project costs in excess of \$25,000,000. If other financing is subordinate to the financing provided by the authority, the amount financed by the authority may not exceed \$25,000,000 plus 70% of the total project costs in excess of \$25,000,000; and

(8) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from the authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority; and

Sec. K-7. 10 MRSA §1043, sub-§2, ¶L, as enacted by PL 2003, c. 506, §4, is amended to read:

L. In the case of transmission facilities projects, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other source of revenues and collateral pledged to the repayment of those securities. In order to make this determination, the authority shall consider such factors as it considers necessary and appropriate in light of the special purpose or other nature of the business entity owning the project to measure and evaluate the project and the sufficiency of the pledged revenues to repay the obligations, including:

(1) Whether the individuals or entities obligated to repay the obligations have demonstrated sufficient revenues from the project or from other sources to repay the obligations and a strong probability that those revenues will continue to be available for the term of the revenue obligation securities;

- (2) Whether the applicant demonstrates a strong probability that the project will continue to operate and provide the public benefits projected to be created for the term of the revenue obligation securities;
- (3) Whether the applicant demonstrates that the benefits projected to be created by the project are enhanced through the use of financing assistance from the authority;
- (4) Whether the applicant's creditworthiness is demonstrated by factors such as its historical financial performance, management ability, plan for marketing its product or service and ability to access conventional financing;
- (5) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;
- (6) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority;
- (7) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances;
- (8) Whether the proposed project enhances the opportunities for economic development;
- (9) The effect that the proposed project financing has on the authority's financial resources; and
- (10) Whether the Northern Maine Transmission Corporation, as established in section 9202, has recommended the project.

Upon request by the authority, state agencies, including but not limited to the Public Utilities Commission, shall provide necessary assistance to the authority in evaluating the feasibility of the project and its importance for northern Maine. In providing assistance, the Public Utilities Commission shall consider whether the proposed project enhances the competitiveness of the wholesale and retail energy market; how the proposed project is likely to affect energy prices for Maine residents; whether the proposed project will augment or enhance the reliability and stability of the grid; and whether there is likely to be a long-term need for the product as produced by the proposed project.

The authority may establish, pursuant to rules adopted in accordance with Title 5, chapter 375, subchapter 2, application procedures, approval criteria and reasonable fees for transmission facilities projects. Rules adopted by the authority under this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. In addition, the authority may require the applicant to pay the reasonable costs of an evaluation of the project risks by an independent consultant. If the authority directs the applicant to pay for such an independent evaluation of the project, the authority shall make every reasonable effort, in its discretion, to minimize the cost of the evaluation and any delay such an evaluation may cause in authority action.

The authority may not finance any project involving an electric transmission line capable of operating at 69 kilovolts or more unless the Public Utilities Commission has issued a certificate of public convenience for the construction of the line pursuant to Title 35-A, section 3132; and

Sec. K-8. 10 MRSA §1043, sub-§2, ¶M is enacted to read:

M. In the case of Efficiency Maine projects, there is a reasonable likelihood that the income, proceeds, revenues and funds of Efficiency Maine derived from or held for activities under Title 35-A, chapter 97 or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the authority shall consider Efficiency Maine's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge Efficiency Maine reasonable fees and expenses. The authority may require that it be indemnified, defended and held harmless by Efficiency Maine for any liability or cause of action arising out of or with respect to the bonds. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of Efficiency Maine derived from or held for activities under Title 35-A, chapter 97. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of Efficiency Maine under Title 35-A, chapter 97.

Sec. K-9. 35-A MRSA c. 97 is enacted to read:

CHAPTER 97

EFFICIENCY MAINE ACT

SUBCHAPTER 1

EFFICIENCY MAINE

§ 10101. Short title

This chapter may be known and cited as "the Efficiency Maine Act."

§ 10102. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Administrator. "Administrator" means the nonprofit entity appointed pursuant to section 10106 to administer Efficiency Maine.

2. Board. "Board" means the board of Efficiency Maine established pursuant to section 10104.

3. Forward capacity market. "Forward capacity market" means the program established by the regional transmission organization and compensates providers of electrical capacity with payments for the availability or reduction of capacity as determined by the regional transmission organization.

4. Low-income resident. "Low-income resident" means a resident of the State whose household has family income equal to or below 200% of the nonfarm income official poverty line as defined by the federal Office of Management and Budget. Participation in any public assistance program with an income eligibility ceiling at or below that level constitutes conclusive proof of low-income status.

5. Member. "Member" means a member of the board.

6. Regional transmission organization. "Regional transmission organization" means the independent systems operator that administers and oversees the wholesale electricity markets in which the State participates.

§ 10103. Organization and responsibility

1. Efficiency Maine established. Efficiency Maine, as established in Title 5, section 12004-G, subsection 10-C, is a body corporate and politic and a public instrumentality of the State, and is a franchise to develop, implement and monitor programs and measures to increase gas, heat and electric energy efficiency and conservation, usage of distributed renewable energy technology and effective load management, including programs and measures delivered in multiple service territories. The exercise of the powers conferred by this chapter constitutes the performance of essential governmental functions.

2. Responsibilities. Efficiency Maine, through the administrator, is responsible for the administration of:

A. Programs that increase gas, heat and electric energy efficiency and conservation, distributed renewable energy technology and effective load management in buildings, including but not limited to those in the residential, commercial, public, university, hospital, nonprofit and industrial sectors;

B. Programs that increase gas, heat and electric energy efficiency and conservation, distributed renewable energy technology and effective load management in industrial facilities;

C. Programs that fund workforce development in the energy efficiency and renewable energy sectors;

D. Programs that fund research and development in the energy efficiency and renewable energy sectors;

E. Programs that provide the public with information about energy technologies and energy efficiency practices;

F. Federal programs related to energy efficiency and distributed renewable energy technology, except as otherwise provided by law or when federal law would preclude administration by Efficiency Maine; and

G. Other programs related to energy efficiency and conservation, distributed renewable energy technology and effective load management, as provided for in the administrator's contract.

§ 10104. Efficiency Maine board

Efficiency Maine is governed by the board.

1. Voting members. The board of Efficiency Maine is composed of 10 voting members:

A. Eight members representing the State:

(1) The director of the Executive Department, State Planning Office or the director's designee;

(2) The Public Advocate or the Public Advocate's designee to represent the interests of residential and small business energy consumers;

(3) The director of the Governor's Office of Energy Independence and Security within the Executive Department, or the director's designee;

(4) The director of the Maine State Housing Authority, or the director's designee;

(5) The chair of the commission or the chair's designee;

(6) The Commissioner of Environmental Protection or the commissioner's designee;

(7) The Commissioner of Labor or the commissioner's designee; and

(8) One trustee of the Energy and Carbon Savings Trust, designated by the Governor; and

B. Two members of the public, appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over utilities and energy matters and to confirmation by the Legislature:

(1) One member representing commercial energy consumers; and

(2) One member representing industrial energy consumers.

2. Terms of office. Public members serve 3-year terms and may serve a maximum of 2 consecutive terms. If a public member is unable to complete the term, the Governor shall appoint a replacement for the remainder of the unexpired term.

3. Participation by Maine Energy Conservation Board. Members of the Maine Energy Conservation Board established in section 10007 may participate in all meetings of the board, but are not members of the board and may not vote.

4. Chair and officers. The Governor shall appoint the chair of the board of Efficiency Maine, as well as a vice-chair, secretary and treasurer.

5. Quorum; emergency meetings. Five members constitute a quorum. The affirmative vote of a majority of those members present and voting is necessary for any action. A vacancy in the board may not impair the right of the quorum to exercise all powers and perform all duties of the board.

Notwithstanding any other provision of law, in a situation determined by the administrator to be an emergency requiring action of the board on not more than 3 days' notice, which may be provided orally to the chair of the board, an emergency meeting of the members may be called by the chair of the board and conducted by conference call, placed by ordinary commercial means, at an appointed time. The board shall arrange for recording of the call where appropriate and shall prepare minutes of the emergency meeting. Public notice of the emergency meeting must be given in accordance with Title 1, section 406 and must include the time of the meeting and the location of a telephone with a speakerphone attachment that enables all persons participating in the telephone meeting to be heard and understood and that is available for members of the public to hear the business conducted at the telephone meeting.

6. Compensation. Members may be reimbursed from the conservation administration fund established under section 10009 for actual and necessary expenses incurred by them as members but may not otherwise be compensated for their services as members.

7. Duties. The board shall appoint the administrator, develop a contract with the administrator and oversee the performance of the administrator in accordance with this chapter. The board shall carry out other duties and may exercise other authority as may be expressly provided under this chapter or other law. In contracting with and overseeing the administrator, the board shall ensure that the board has no more involvement in the administrator's operations and internal affairs than is necessary to carry out the board's responsibilities.

8. Powers. In addition to other powers provided under this chapter, the board may, to the extent necessary to fulfill its duties under this chapter:

A. Adopt an official seal and alter it at pleasure;

B. Adopt rules. Except as otherwise expressly provided, rules of the board are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

C. Conduct hearings, receive testimony under oath and administer oaths;

D. Issue subpoenas requiring the attendance of witnesses or the production of records or other things. Whenever a person refuses to obey a subpoena duly issued by the board, the Superior Court for Kennebec County or any court of this State within the jurisdiction of which the person resides or transacts business has jurisdiction to issue to that person an order requiring that person to comply with the subpoena, and any failure to obey that order may be punished by the court as contempt; and

E. In consultation with and with the assistance of the administrator, propose, develop and approve revenue bond projects as Efficiency Maine projects under Title 10, section 963-A, subsection 10-A .

9. Staffing; employees. The commission shall provide staffing resources for the board. The board may employ persons, including private legal counsel and financial experts, on either a temporary or permanent basis, in order to carry out any of its powers and duties. The board may by rule delegate any powers and duties of Efficiency Maine to its employees and each employee is fully authorized to act in the name and on behalf of Efficiency Maine pursuant to any such delegation.

§ 10105. Limitation of liability

Efficiency Maine may be sued in accordance with Title 1, section 409; Title 5, chapter 375; or Title 14, chapter 741 except that the members of the board, the administrator and employees of the board or the administrator are not subject to any personal liability for having acted within the course and scope of that person's membership, appointment or employment to carry out any power or duty under this chapter. Efficiency Maine shall indemnify a member, administrator or an employee of the board or administrator against expenses actually and necessarily incurred by that person in connection with the defense of any action or proceeding in which that person is made a party by reason of past or present association with Efficiency Maine. Efficiency Maine's liability is limited to its assets.

§ 10106. Appointment of administrator; contract

1. Appointment of administrator. The board shall appoint a nonprofit legal entity to serve as administrator of Efficiency Maine. The board may create and establish an independent nonprofit legal entity to fill the appointment if it determines that such action is in the public interest.

2. Contract with administrator. The board shall contract with the administrator appointed pursuant to subsection 1 for a period of 5 years. At least one year prior to the expiration of each contract period, the board shall invite proposals from other nonprofit legal entities to serve as administrator for

the succeeding contract period, which may be up to 5 years. The appointment of the administrator for the succeeding period must be made at least 6 months prior to the expiration of the then current contract period.

3. Duties of the board. In establishing a contract with the administrator, the board shall:

A. Establish performance measures in areas including but not limited to:

(1) Electric efficiency, natural gas efficiency and heating efficiency targets;

(2) Renewable resource development targets, chiefly in the area of distributed renewable energy technology;

(3) Energy and heat conservation targets;

(4) Financial integrity;

(5) Program delivery efficiency, including an expectation that administrative and program support costs remain under 11% of annual revenues;

(6) Customer satisfaction;

(7) Benefit-cost ratios for conservation acquisition programs based on both utility system and societal perspectives;

(8) Coordination with related local, state and regional programs;

(9) Reasonable distribution of program benefits among customer classes and geographic areas, and high participation rates among low-income residents and small businesses;

(10) Internal program performance monitoring and ability to make effective program adjustments;

(11) Transparency; and

(12) Review and adoption of best practices;

B. Establish methodologies and procedures for independent evaluation of the administrator's performance, including comprehensive data collection, facilitated by required use of information technology by the administrator's contractors and effective and coordinated use by the board and the administrator of software and other information technology. Methodologies adopted must maximize the eligibility of projects for forward capacity market payments administered by the regional transmission organization or other capacity payments that may be attributable to projects funded in any measure by Efficiency Maine;

C. Review and comment on the administrator's strategic plans, action plans and annual budgets;

D. Require the administrator to report at least semiannually in public meetings called by the board on program activity and finances; and

E. Require a management audit of the administrator at least once every 5 years.

4. Plan of operation; rules. The administrator shall adopt a plan of operation in accordance with the requirements of this chapter and submit its articles, bylaws and operating rules to the board.

§ 10107. Duties and powers

1. Duties. The administrator, subject to the terms of its contract, shall:

A. Establish administrative and accounting procedures for Efficiency Maine's operation;

B. Obtain or develop a publicly accessible computer program to enable contractors, builders, architects, engineers and government officials to estimate the energy consumed by residential and nonresidential buildings. The administrator may charge a fee approved by the board for use of the program, based upon the actual costs of the program, including any computer costs. The administrator shall require that any work performed pursuant to Efficiency Maine's programs make use of such information technology as is necessary to facilitate evaluation of Efficiency Maine's performance, ensure maximum eligibility of projects for forward capacity market payments administered by the regional transmission organization or other capacity payments that may be attributable to projects funded in any measure by Efficiency Maine;

C. Prescribe qualifications for contractors performing work pursuant to Efficiency Maine's programs, taking due account of the recommendations and results of the analysis performed pursuant to Title 26, section 2041, subsection 4. Contractors and subcontractors must be equal opportunity employers and, for contracts in excess of \$250,000, shall pursue in good faith affirmative action programs as defined in Title 5, section 782. The administrator shall be the final arbiter of whether a contractor has the required qualifications or whether a training program is adequate to meet that qualification level;

D. Deliver energy conservation programs in all regions of the State on an equitable basis and to citizens at all income levels and businesses and organizations of all types;

E. Abstain from developing, acquiring, funding, coordinating or otherwise undertaking any project or making any grant, direct investment or loan under this chapter unless the administrator determines that action is reasonably necessary;

F. Avoid unnecessarily duplicating products and services that are reasonably available from other sources, including but not limited to private market sources;

G. Structure its activities to maximize investment from sources other than Efficiency Maine in furthering Efficiency Maine's purposes;

H. When the administrator determines it effective and appropriate, contract with governmental entities, public utilities or other entities to administer programs that further Efficiency Maine's purposes;

I. Whenever reasonably possible, structure Efficiency Maine's activities as projects eligible for forward capacity market payments administered by the regional transmission organization or other capacity payments that may be attributable to projects funded in any measure by Efficiency Maine. The administrator shall seek to structure such projects as partnerships with public utilities, wherever it determines that such partnerships are appropriate;

J. Structure programs to avoid giving a business an advantage over competitors in the State. The administrator may achieve this end by providing assistance outside of its usual project parameters to businesses that have already engaged in activities that advance Efficiency Maine's purposes;

K. Require work that it oversees to be governed by project labor agreements and community benefit agreements;

L. Ensure that projects that are directly or indirectly subsidized by Efficiency Maine meet the standards in Title 26, sections 1301 and 1304 to 1313;

M. Ensure that contractors, whose work is directly or indirectly subsidized by Efficiency Maine, in filling labor requirements make best efforts to coordinate with local workforce development programs, including but not limited to apprenticeship programs and programs that primarily serve low-income residents or people with disabilities, with a target of filling at least 20% of jobs created with individuals who have been unemployed for longer than 6 months, are clients of the Department of Labor's career center or have family income equal to or below 200% of the federal nonfarm income official poverty line;

N. To the extent practicable, encourage the development of resources, infrastructure and skills within the State by giving preference to in-state service providers;

O. Utilize competitive bidding processes and performance-based contracts, except:

(1) For the delivery of programs to low-income residents, in which case the administrator, without employing a competitive bidding process, may utilize the delivery system for the Weatherization Assistance for Low-income Persons Program administered through the United

States Department of Energy, the network of for-profit and not-for-profit entities who have held contracts with transmission and distribution utilities to deliver energy conservation services to low-income residents and the delivery system for the Low-income Home Energy Assistance Program administered through the United States Department of Health and Human Services; and

(2) In other instances where the administrator determines that the selection of a particular service provider will promote the efficient and effective delivery of Efficiency Maine's programs and is consistent with the objectives and overall strategy of those programs, including but not limited to instances in which a partnership with a governmental unit or agency, a transmission and distribution utility or a gas utility is appropriate; and

P. Charge and collect reasonable fees and charges established by the board for the use of Efficiency Maine's services or facilities.

2. General powers. Efficiency Maine, through its board and, to the extent authorized under and in accordance with its contract, the administrator may, consistent with the purposes of Efficiency Maine and subject to any limitations in this chapter or in other provisions of state and federal law:

A. Acquire, hold, use and dispose of its income, revenue, funds and money;

B. Acquire, rent, lease, hold, use and dispose of other personal and real property for its purposes;

C. Provide grants;

D. Obtain, develop or disseminate any information useful or convenient for carrying out any purpose or power of Efficiency Maine, including any information pertaining to:

(1) Management or financing of any enterprise or project eligible for assistance from Efficiency Maine;

(2) Land use;

(3) Other regulatory or assistance programs, resources or services;

(4) Design and construction techniques; and

(5) A project receiving financial assistance from or through Efficiency Maine, including, without limitation, by means of examination of books or records pertaining to the project;

E. Procure insurance in aid of any of Efficiency Maine's corporate purposes;

F. Obtain any certification, warranty, affidavit or other representation necessary or useful for carrying out any of its powers or duties;

G. Place reasonable conditions on contractors and subcontractors working pursuant to or individuals or entities receiving benefits directly or indirectly from funds expended directly or indirectly by Efficiency Maine, to advance public policies of the State;

H. Sue or initiate or appear on behalf of Efficiency Maine in any proceeding;

I. Maintain an office or offices at a place or places designated by it within the State;

J. Receive and accept from any source allocations, appropriations, loans, grants and contributions of money or other things of value to be held, used or applied to carry out this chapter, subject to the conditions upon which the loans, grants and contributions may be made, including, but not limited to, appropriations, allocations, loans, grants or gifts from any federal agency or governmental subdivision or the State or its agencies;

K. Support and participate in markets that reward energy conservation and use any proceeds from this participation to support programs under this chapter;

L. Invest funds received from any source for carrying out this chapter in the same manner as permitted for the investment of funds belonging to the State or held in the State Treasury, except as otherwise permitted or provided by this chapter, and expend interest earnings on those funds as appropriate to implement this chapter, including use for program and administrative costs;

M. Make, modify and carry out any contract or agreement necessary or useful for carrying out any of its powers, duties or purposes, including without limitation any construction agreement, purchase or acquisition agreement, loan or lease agreement, agreement conditioned upon the subleasing of demised premises, partnership agreement, limited partnership agreement, joint venture agreement, participation agreement, agreement with leasing corporations or other financial intermediaries or agreement pertaining to any loan to a governmental unit or any purchase or sale of municipal securities or other investments;

N. On behalf of or in partnership with one or more governmental units, small businesses or nonprofit corporations organized under the United States Internal Revenue Code, Section 501, aggregate governmental units, small businesses and nonprofit corporations to purchase in bulk appliances, energy efficiency services, distributed renewable technology services and related financial products;

O. Make recommendations to the Governor, the Legislature, and other public officials regarding energy policy; and

P. Do any act or thing necessary or useful for carrying out any of its powers, duties or purposes.

§ 10108. State services

1. State assistance authorized. State officers, departments, boards, agencies, divisions and commissions may provide any service to Efficiency Maine that is:

- A. Requested by the board; and
- B. Within the area of their governmental functions as established by law.

2. Study or review requests. State officers, departments, boards, agencies, divisions and commissions shall promptly comply with any reasonable request made by Efficiency Maine under subsection 1 for making any study or review concerning:

- A. The desirability, need, cost or expense with respect to a public project;
- B. The financial feasibility of a public project; or
- C. The financial or fiscal responsibility or ability in connection with a public project.

3. Cost of services. At the request of the officer, department, board, agency, division or commission providing the service, Efficiency Maine shall pay the cost of a service requested by Efficiency Maine under this section.

§ 10109. Conflicts of interest; financial disclosure statements

Notwithstanding Title 5, section 18, subsection 1, paragraph B, each member of the board of Efficiency Maine and each employee, contractor, agent or other representative of Efficiency Maine or the administrator is deemed an "executive employee" solely for purposes of Title 5, section 18 and for no other purpose, except that the administrator's senior managers, whom the board shall designate in the administrator's contract, in addition are deemed "executive employees" for purposes of Title 5, section 19. Title 17, section 3104 does not apply to any of those representatives.

§ 10110. Annual report; audit

1. Report. The board shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives and the joint standing committees of the Legislature having jurisdiction over utilities matters and business, research and economic development matters, not later than 120 days after the close of its fiscal year, a complete report on the activities of Efficiency Maine and shall make the report available on Efficiency Maine's publicly accessible website. The report must include:

- A. A description of Efficiency Maine's operations, financial status and administrative expenses, including a description of projects assisted under this chapter;
- B. An accounting of Efficiency Maine's receipts and expenditures, assets and liabilities at the end of its fiscal year;
- C. A statement of Efficiency Maine's proposed and projected activities for the ensuing year and the relationship of these activities to the State's energy policies;
- D. Recommendations as to further actions that may be suitable for achieving the purposes of this chapter; and

E. Any other matters relating to Efficiency Maine's activities and accomplishments.

2. Treasurer of State; annual financial report. Efficiency Maine shall provide the Treasurer of State, within 120 days after the close of its fiscal year, its annual financial report certified by an independent certified public accountant, who may be the accountant or a member of the firm of accountants who regularly audits the books and accounts of Efficiency Maine, selected by Efficiency Maine. Efficiency Maine is also subject to the provisions of Title 5, chapter 11. Efficiency Maine may combine for accounting purposes any or all funds established for its programs and activities.

§ 10111. Disclosure and confidentiality of records

Except as provided in this section, all records in the possession or custody of Efficiency Maine or its administrator are public records under Title 1, section 402, subsection 3.

1. Confidential information. Except as provided in subsection 2, the following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. A record obtained or developed by Efficiency Maine prior to receipt of a written application or proposal, in form specified by or acceptable to Efficiency Maine, for financial assistance to be provided by or with the assistance of Efficiency Maine or in connection with a transfer of property to or from Efficiency Maine. After receipt by Efficiency Maine of the application or proposal, a record pertaining to the application or proposal is not confidential under this subsection unless it meets the requirements of other paragraphs of this subsection;

B. A record obtained or developed by Efficiency Maine that:

(1) A person, including Efficiency Maine, to whom the record belongs or pertains has requested be designated confidential; and

(2) The board has determined contains information that gives the owner or a user an opportunity to obtain business or competitive advantage over another person who does not have access to the information, except through Efficiency Maine records, or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment, other than loss or denial of financial assistance from Efficiency Maine, to any person to whom the record belongs or pertains;

C. A financial statement or tax return of an individual or any other record obtained or developed by Efficiency Maine the disclosure of which would constitute an invasion of personal privacy, as determined by the board;

D. A record including any financial statement or tax return obtained or developed by Efficiency Maine in connection with any monitoring or servicing activity by Efficiency Maine pertaining to any financial assistance provided or to be provided by or with the assistance of Efficiency Maine; and

E. A record obtained or developed by Efficiency Maine that contains an assessment by a person who is not employed by the board or the administrator of the creditworthiness or financial condition of any person or project.

Efficiency Maine shall provide to a legislative committee, on written request signed by the chairs of that committee, any information or records, including information designated confidential under this subsection, specified in the written request. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by it.

2. Disclosure required. Notwithstanding subsections 1 and 3 and except as provided in this subsection, the following are not designated confidential and are public records:

A. After filing of a written application or proposal for financial assistance or property transfer, in a form specified by or acceptable to Efficiency Maine:

(1) Names of recipients of or applicants for financial assistance, including principals, where applicable;

(2) Amounts, types and general terms of financial assistance provided to those recipients or requested by those applicants;

(3) Descriptions of projects and businesses benefiting or to benefit from the financial assistance;

(4) Names of transferors or transferees, including principals, of property transferred to or from Efficiency Maine, the general terms of transfer and the purposes for which transferred property will be used;

(5) Energy-related benefits projected or resulting in connection with a project; and

(6) Names of financial institutions participating in providing financial assistance and the general terms of that financial assistance;

B. Any otherwise confidential information the confidentiality of which the board determines to have been satisfactorily and effectively waived;

C. Any otherwise confidential information that has already lawfully been made available to the public; and

D. The annual report of Efficiency Maine required pursuant to section 10110.

Notwithstanding Title 1, chapter 13, the board may refuse to provide information described in this subsection in response to a request for such information if the board reasonably determines that the request for information has been made for an improper purpose or is unduly burdensome.

3. Wrongful disclosure prohibited. A member, officer, administrator, employee, agent, other representative of Efficiency Maine or other person may not knowingly divulge or disclose records designated confidential by this section, except that the board may, in its discretion, make or authorize any disclosure of information of the following types or under the following circumstances:

- A. Impersonal, statistical or general information;
- B. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person or in connection with acquiring, maintaining or disposing of property;
- C. To a financing institution or credit reporting service;
- D. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance;
- E. Information to the extent the board determines the disclosure necessary to the sale or transfer of revenue obligation securities or to the sale or transfer of bonds of the State;
- F. If necessary to ensure collection of any obligation in which it has or may have an interest;
- G. In any litigation or proceeding in which Efficiency Maine has appeared, introduction for the record of any information obtained from records designated confidential by this section; and
- H. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, provided that any such order appears to have first been served on the person to whom the confidential information sought pertains or belongs and provided that any such order appears on its face or otherwise to have been issued or made upon lawful authority.

§ 10112. Liberal construction

This chapter, being necessary for the welfare of the State and its inhabitants, must be liberally construed. In the event of any conflict between this chapter and any other law, this chapter prevails, barring a clear legislative intent to the contrary, but the power and authority granted is in addition to and not in derogation of power and authority granted by any other law.

§ 10113. Taxation and fees

Notwithstanding any other provision of law, for the purposes of this chapter, transactions and property of Efficiency Maine must be treated according to this section.

1. Conveyances, leases, mortgages, deeds of trust; indentures; exemptions from taxation. Conveyances by or to Efficiency Maine and leases, mortgages and deeds of trust or trust indentures by or to Efficiency Maine are exempt from all taxation by the State or any of its political subdivisions, including, but not limited to, any applicable license, excise or other taxes imposed in respect of the privilege of engaging in any of the activities in which Efficiency Maine may engage.

2. Property exemption from taxation and other assessments. Property acquired, held or transferred by Efficiency Maine is exempt from all taxes and from betterments and special assessments of a city, town, county, state or political subdivision. Efficiency Maine may agree to make payments in lieu of taxes to an applicable political subdivision.

§ 10114. Service provider selection

Except as otherwise provided in this chapter, Efficiency Maine is not subject to rules adopted by the State Purchasing Agent in selecting service providers pursuant to this chapter. The board shall by rule establish procedures governing the selection of service providers under this section and shall consult with the State Purchasing Agent in developing the rules.

§ 10115. Lending and borrowing powers generally

1. Powers. For the purposes authorized by this chapter, the administrator may pursuant to the terms of its contract:

A. Lend money to governmental units through purchase on behalf of Efficiency Maine, exclusively or in partnership with other individuals or entities, including but not limited to the Maine Municipal Bond Bank, of municipal securities of governmental units in fully marketable form;

B. Lend money to nongovernmental individuals and entities through purchase on behalf of Efficiency Maine, exclusively or in partnership with other individuals or entities, of notes or securities in fully marketable form;

C. Borrow money and make the borrowing proceeds available to a governmental unit or nongovernmental individual or entity at terms agreed upon by the board and the recipient of the proceeds;

D. Provide interest rate subsidies on commercial loans to businesses, farms, nonprofit organizations, governmental entities and other individuals and entities and provide or participate in interest rate cap agreements and other agreements providing businesses with protection against interest rate fluctuations;

E. With respect to loans to any person or entity, consider the need, desirability or eligibility of the loan and the availability and cost of alternative financing;

F. Impose and collect charges for its costs and services, in review, consideration or servicing of any proposed or outstanding loan or loan agreement to borrow on behalf of a person or entity; and

G. Consent to any modification with respect to rates of interest, time and payment of any installment of principal or interest, security or any other term of any contract or agreement of any kind to which Efficiency Maine is a party.

2. Expenses. All expenses incurred in carrying out the purposes of this chapter are payable solely from revenues or funds provided under this chapter. Nothing in this chapter may be construed to authorize Efficiency Maine to incur any indebtedness or liability on behalf of or payable by the State.

§ 10116. Allocation of resources

Efficiency Maine shall spend funds in accordance with this section.

1. Efficiency credit funds. Except as otherwise expressly provided in subchapters 2 to 10, Efficiency Maine shall expend funds procured from the sale of efficiency credits for electricity, natural gas and heating fuel under section 10009, and from forward capacity market payments administered by the regional transmission organization or other capacity payments that are attributable to projects funded in any measure by Efficiency Maine, on programs related to the energy source, whether electricity, natural gas or heating fuel, and sector, whether governmental, residential, commercial or industrial, from which the funds are derived. The commission shall determine what proportion of the funds are derived from each energy source and sector and Efficiency Maine shall expend such funds in accordance with that determination.

2. Federal funds. Except as otherwise provided by law, Efficiency Maine is the agency designated to receive and administer federal funding to promote gas, heat and electric energy efficiency and conservation, distributed renewable energy technology and effective load management in residential, commercial and industrial buildings and facilities and shall expend such funds in accordance with applicable law.

3. Appropriated funds. Efficiency Maine shall expend any funds derived from state appropriations or allocations in accordance with any requirements attached to receipt of those funds.

4. Energy and Carbon Savings Trust. Funds within the Energy and Carbon Savings Trust must be expended in accordance with section 10008.

5. Administration, workforce development and research and development. Funds for administration, workforce development and research and development must be drawn proportionally from funds dedicated to the residential, industrial and commercial sectors, excluding funds within the Energy and Carbon Savings Trust, which must be expended in accordance with section 10008.

SUBCHAPTER 2

RESIDENTIAL PROGRAMS

§ 10151. Establishment of residential programs

Efficiency Maine shall develop, implement and monitor programs and measures to increase electric, gas and heat energy efficiency and conservation, distributed renewable energy technology and effective load management in residential buildings, including programs and measures delivered in multiple service territories, consistent with this chapter.

§ 10152. Program guidelines

1. Low-income residents. Serving low-income residents is the first priority for Efficiency Maine's residential sector programs and Efficiency Maine shall provide services to each low-income resident within the State by December 31, 2018. Efficiency Maine shall expend at least 60% of funds determined by the commission pursuant to section 10116, subsection 1 to be derived from the residential sector on programs benefiting low-income units and at least 20% of funds procured from the sale of efficiency credits for electricity under section 10009 on programs benefiting low-income homeowners and renters.

A. Efficiency Maine shall design programs for low-income residents to subsidize most or all services provided and shall provide sufficient technical assistance or direct oversight of work done to overcome the economic and social barriers that prevent low-income residents from taking advantage of energy cost and demand reduction opportunities.

B. Efficiency Maine shall ensure that, through all its programs and revenue streams benefiting low-income residents, each low-income resident receives the equivalent of at least \$4,200 in direct subsidy from Efficiency Maine, adjusted annually beginning in 2010 using the Consumer Price Index for Urban Wage Earners and Clerical Workers or a successor index for the 12 months prior to January 1st of the applicable year, as calculated by the United States Department of Labor, rounded to the nearest \$10. The subsidy may be less to the extent that the residential unit's owner refuses to permit a recommended product or service.

C. If, after the expense of a home evaluation and of all measures with a payback period of 20 years, there is unused subsidy for a residential unit and if installation of distributed renewable energy technology with a longer payback period is not technically feasible, Efficiency Maine may pool that subsidy with other individual subsidies for energy efficiency, conservation and demand reduction measures that benefit a neighborhood or community or may subsidize cost-effective fuel switching measures. Efficiency Maine's demand reduction obligations under section 10009 must be reduced to the extent that fuel switching measures are paid for by funds procured from the sale of efficiency credits.

D. The commission shall determine annually the average cost per low-income resident household resulting from the portion of the cost of efficiency credits for heating fuel under section 10009 that is effectively passed on to consumers, taking account of any state or federal tax treatment of the purchase of the credits for heating fuel wholesalers and any other relevant considerations, and Efficiency Maine shall ensure distribution of that amount to any household that is eligible for benefits under the Low-income Home Energy Assistance Program administered by the United States

Department of Health and Human Services, has not received benefits under one or more of Efficiency Maine's programs since the effective date of this chapter and is not living in housing or participating in a program in which the passed-on cost is inapplicable to the household.

2. Middle-income residents. Serving middle-income residents is the second priority in Efficiency Maine's residential sector programs, and it is a goal of Efficiency Maine to provide services to each middle-income residential unit within the State by December 31, 2018. Efficiency Maine shall design programs that will directly subsidize half of all services provided, after accounting for tax credits, direct government subsidies and similar sources of funding, and shall provide sufficient technical assistance or direct oversight of work done to overcome the economic and social barriers that prevent homeowners and renters from taking advantage of energy cost and demand reduction opportunities. Efficiency Maine may use any reasonable criteria to define "middle-income resident" and the commission may adopt by rule a definition of the term for purposes of Efficiency Maine's activities, but any definition must be designed to minimize the need for income verification or other activities that might deter use of Efficiency Maine's services.

3. Other residential units. Efficiency Maine may adopt any reasonable program design to serve upper-income residents, residential units that do not constitute an individual's primary residence and other residential units not addressed under subsections 1 and 2. It is a goal of Efficiency Maine to ensure that cost-effective energy efficiency, conservation and demand reduction measures are adopted in as many such units as possible.

4. Leveraging other funds. In leveraging other funds for residential programs, Efficiency Maine shall minimize the extent to which such funding comes from forms of indebtedness with recourse against the individual receiving services. Efficiency Maine shall, between direct subsidy, leveraged funds and any other sources, promote adoption of all energy efficiency, conservation and demand reduction measures that have a payback period of 15 years or less.

5. Residential unit evaluation. To the maximum reasonable extent, Efficiency Maine shall ensure that each residential unit for which residential program services are sought is evaluated for the full range of programs and measures to increase energy efficiency and energy conservation, distributed renewable energy technology and effective load management, so that the largest possible range of such programs and measures can be adopted at one time. In multifamily dwellings, Efficiency Maine shall maximize the extent to which whole building evaluations are used and whole building measures adopted.

6. Split incentives. In providing services and developing programs and measures for rental housing, Efficiency Maine shall take account of the fact that tenant payment of utility bills often limits landlord incentives to lower energy costs and shall strike a reasonable balance between ensuring that benefits flow to the individuals who are paying energy costs directly and making programs and measures attractive for landlords.

§ 10153. Relationship with Maine State Housing Authority

1. Cooperative relationship. Efficiency Maine and the Maine State Housing Authority shall maximize cooperation in programs and measures that seek to increase gas, heat and electric energy efficiency and conservation, distributed renewable energy technology and effective load management in buildings in order to integrate planning, eliminate duplication and more effectively serve beneficiaries of the programs and measures. Each party shall include information about the other party's relevant programs and measures in information distributed to the public. The parties shall coordinate to ensure that beneficiaries need work with only one agency to obtain the full range of products and services available from both agencies, and in any instance where the parties disagree, that one agency must be Efficiency Maine.

2. Services to low-income residents. The administrator shall contract with the Maine State Housing Authority to deliver residential programs to low-income residents, and shall prescribe how services outside of the Weatherization Assistance for Low-income Persons Program administered through the United States Department of Energy, the Low-income Home Energy Assistance Program administered through the United States Department of Health and Human Services and the Maine State Housing Authority's central heating improvement program or any successor program are provided.

A. The Maine State Housing Authority shall administer the 2 federal programs under this subsection in consultation with the administrator, in a manner that maximizes the extent to which Efficiency Maine receives any forward capacity market payments administered by the regional transmission organization or other capacity payments and in a manner consistent with Efficiency Maine's programs and goals, and with the provisions of this subchapter.

B. The Maine State Housing Authority and the administrator shall develop accounting systems, energy efficiency and demand reduction measurement systems and other systems to ensure efficient program administration, transparency, accountability and compliance with state and federal law. The board shall prescribe standards for qualifications of individuals performing all work pursuant to this section.

3. Efficiency in low-income rental housing. The administrator and the Maine State Housing Authority shall jointly develop and coordinate the implementation of programs to effectuate Title 30-A, section 4748.

4. Contracting for other programs. The administrator may contract with the Maine State Housing Authority to deliver residential programs other than those described in subsections 2 and 3 and shall ensure that such a contract is consistent with the requirements of this chapter.

5. Consultation. The administrator shall review the Maine State Housing Authority's programs and measures to increase gas, heat and electric energy efficiency and conservation, distributed renewable energy technology and effective load management in buildings, and the Maine State Housing Authority shall consider any modifications recommended by the administrator that would improve integration with Efficiency Maine's programs and measures. The Maine State Housing Authority shall consult with the administrator before developing new programs or measures in these areas.

SUBCHAPTER 3

COMMERCIAL PROGRAMS

§ 10161. Establishment of commercial programs

Efficiency Maine shall develop, implement and monitor programs and measures to increase electric, gas and heat energy efficiency and conservation, distributed renewable energy technology and effective load management in commercial buildings, including programs and measures delivered in multiple service territories, consistent with this chapter.

§ 10162. Program guidelines

1. Small businesses. Serving small businesses is the first priority for Efficiency Maine's commercial sector programs, and it is a goal of Efficiency Maine to provide services to each small business within the State by December 31, 2018. Efficiency Maine shall expend at least 40% of funds determined by the commission pursuant to section 10116, subsection 1 to be derived from the commercial sector on programs for small businesses. Efficiency Maine shall design programs and measures that provide sufficient technical assistance or direct oversight of work done to overcome the unique economic barriers that prevent small businesses from taking advantage of energy cost and demand reduction opportunities, including but not limited to small staff size, limited access to capital and frequent need for direct subsidy. Efficiency Maine shall conduct outreach to small businesses and shall avoid complexity in program design and registration, paperwork and other aspects of its programs and measures in order to maximize small business participation.

2. Evaluation and technical assistance. Commercial sector programs shall at a minimum provide for free evaluation by persons meeting qualifications established by Efficiency Maine under section 10107, subsection 1, paragraph C, and for such technical assistance as businesses need to conduct effective request-for-proposal processes. To the maximum reasonable extent, Efficiency Maine shall ensure that each building for which commercial program services are sought is evaluated for the full range of programs and measures to increase energy efficiency and conservation, distributed renewable energy technology and effective load management, so that the largest possible range of such programs and measures can be adopted at one time.

3. Leveraging other funds. Efficiency Maine may not substitute its services for those reasonably available in the market and shall design commercial sector programs to maximize facilitation of performance-based contracts with energy service companies. In leveraging funds from other entities for commercial sector programs, Efficiency Maine shall minimize the extent to which such funding comes from forms of indebtedness with recourse against the business receiving services. Efficiency Maine shall, between direct subsidy, leveraged funds and any other sources, promote adoption of all efficiency, conservation and demand reduction measures that have a payback period of 15 years or less and shall especially seek to leverage funds for heat energy efficiency and demand reduction.

4. Split incentives. In providing services and developing programs and measures for commercial buildings with rented space, Efficiency Maine shall take account of the fact that the entity paying energy costs is often not the entity with authority to adopt energy cost reduction measures and shall strike a reasonable balance between ensuring that benefits flow to the entities who are paying energy costs

directly and making programs and measures attractive for both landlord and tenant. Efficiency Maine shall work with landlords, tenants and subtenants to implement whole building measures, with benefits flowing chiefly to the entity paying for energy, and with due account taken of the effect that lease terms may have on the long-term cost-effectiveness of a given measure.

§ 10163. Relationship to other agencies

1. Cooperative relationship. Efficiency Maine shall establish cooperative relationships with governmental units and agencies with responsibility for business assistance and development, including but not limited to the Finance Authority of Maine and the Department of Economic and Community Development, to enhance the ability of those entities to advance Efficiency Maine's goals and to integrate their activities into Efficiency Maine's operational and long-term plans.

2. Contracting for program administration. Efficiency Maine may contract with any governmental unit or agency to administer any aspect of its commercial sector programs and shall ensure that such a contract is consistent with the requirements of this chapter.

SUBCHAPTER 4

PUBLIC SECTOR PROGRAMS

§ 10171. Establishment of public sector programs

Efficiency Maine shall develop, implement and monitor programs and measures to increase electric, gas and heat energy efficiency and conservation, distributed renewable energy technology and effective load management in governmental buildings, including programs and measures delivered in multiple service territories, consistent with this chapter.

§ 10172. Program guidelines

1. Municipal and county governments. Serving municipalities and county governments, particularly those with limited resources and serving small populations, is the first priority for Efficiency Maine's public sector programs, and it is the goal of Efficiency Maine to provide services to each municipal and county government within the State by December 31, 2018.

2. Evaluation and technical assistance. Public sector programs financed through the sale of efficiency credits for electricity and natural gas under section 10009, through forward capacity market payments administered by the regional transmission organization or other capacity payments that are attributable to those funds and through the Energy and Carbon Savings Trust shall at a minimum provide for free evaluation by persons meeting qualifications established by Efficiency Maine under section 10107, subsection 1, paragraph C, and for such technical assistance as governmental units and agencies need to conduct effective request-for-proposal processes. To the maximum reasonable extent, Efficiency Maine shall ensure that each building for which commercial program services are sought is

evaluated for the full range of programs and measures to increase energy efficiency and conservation, distributed renewable energy technology and effective load management, so that the largest possible range of such programs and measures can be adopted at one time.

3. Leveraging other funds. Efficiency Maine may not substitute its services for those reasonably available in the market and in designing public sector programs shall maximize facilitation of performance-based contracts with energy service companies. In leveraging funds from other entities for public sector programs, Efficiency Maine shall minimize the extent to which such funding comes from forms of indebtedness with recourse against the governmental unit or agency receiving services. Efficiency Maine shall, between direct subsidy, leveraged funds and any other sources, promote adoption of all efficiency, conservation and demand reduction measures that have a payback period of 15 years or less and shall especially seek to leverage funds for heat energy efficiency and demand reduction.

4. Split incentives. In providing services and developing programs and measures for government buildings with rented space, Efficiency Maine shall take account of the fact that the entity paying energy costs is often not the entity with authority to adopt energy cost reduction measures and shall strike a reasonable balance between ensuring that benefits flow to the entities who are paying energy costs directly and making programs and measures attractive for both landlord and tenant. Efficiency Maine shall work with landlords, tenants and subtenants to implement whole building measures, with benefits flowing chiefly to the entity paying for energy, and with due account taken of the effect that lease terms may have on the long-term cost-effectiveness of a given measure.

§ 10173. Administration of Efficiency Partners Program

Efficiency Maine shall administer the Efficiency Partners Program established under Title 30-A, section 5953-C in accordance with that section.

§ 10174. Relationship to other agencies

1. Cooperative relationship. Efficiency Maine shall establish cooperative relationships with governmental units and agencies to enhance the ability of those entities to advance Efficiency Maine's goals and to integrate their activities into Efficiency Maine's operational and long-term plans.

2. Contracting for program administration. Efficiency Maine may contract with any governmental unit or agency to administer any aspect of its public sector programs and shall ensure that such a contract is consistent with the requirements of this chapter.

SUBCHAPTER 5

HIGHER EDUCATION, HOSPITAL AND NONPROFIT PROGRAMS

§ 10181. Establishment of higher education, hospital and nonprofit programs

Efficiency Maine shall develop, implement and monitor programs and measures to increase electric, gas and heat energy efficiency and conservation, distributed renewable energy technology and effective load management in buildings owned or occupied by higher education, hospital and nonprofit entities, including programs and measures delivered in multiple service territories, consistent with this chapter.

§ 10182. Program guidelines

1. Nonprofit entities. Efficiency Maine shall design programs and measures that provide sufficient technical assistance or direct oversight of work done to overcome the unique economic barriers that prevent the entities served under this chapter, and particularly nonprofit entities, from taking advantage of energy cost and demand reduction opportunities, including but not limited to lack of access to capital, lack of relevant expertise and inability to take advantage of tax incentives. Efficiency Maine shall avoid complexity in program design and registration, paperwork and other aspects of its programs and measures in order to maximize participation.

2. Evaluation and technical assistance. Programs under this subchapter shall at a minimum provide for free evaluation by persons meeting qualifications established by Efficiency Maine under section 10107, subsection 1, paragraph C and for such technical assistance as entities need to conduct effective request-for-proposal processes. To the maximum reasonable extent, Efficiency Maine shall ensure that each building served is evaluated for the full range of programs and measures to increase energy efficiency and conservation, distributed renewable energy technology and effective load management, so that the largest possible range of such measures can be adopted at one time.

3. Leveraging other funds. Efficiency Maine may not substitute its services for those reasonably available in the market and shall maximize facilitation of performance-based contracts with energy service companies. In leveraging funds from other entities for higher education, hospital and nonprofit programs, Efficiency Maine shall minimize the extent to which such funding comes from forms of indebtedness with recourse against the entity receiving services. Efficiency Maine shall, between direct subsidy, leveraged funds and any other sources, promote adoption of all efficiency, conservation and demand reduction measures that have a payback period of 15 years or less and shall especially seek to leverage funds for heat energy efficiency and demand reduction.

4. Equity. Efficiency Maine may assist entities under this subchapter that have already achieved substantial efficiency, demand reduction and load management savings in achieving similar savings that have payback periods longer than 15 years.

§ 10183. Relationship to other agencies

1. Cooperative relationship. Efficiency Maine shall establish cooperative relationships with governmental units and agencies with responsibility for assistance to entities served under this subchapter, to enhance the ability of those entities to advance Efficiency Maine's goals and to integrate their activities into Efficiency Maine's operational and long-term plans.

2. Contracting for program administration. Efficiency Maine may contract with any governmental unit or agency to administer any aspect of the programs under this subchapter and shall ensure that such a contract is consistent with the requirements of this chapter.

SUBCHAPTER 6

INDUSTRIAL PROGRAMS

§ 10191. Establishment of industrial programs

Efficiency Maine shall develop, implement and monitor programs and measures to increase electric, gas and heat energy efficiency and conservation, distributed renewable energy technology and effective load management in industrial facilities and processes, including programs and measures delivered in multiple service territories, consistent with this chapter.

§ 10192. Program guidelines

1. Small businesses. Serving small businesses is the first priority for Efficiency Maine's industrial sector programs, and it is a goal of Efficiency Maine to provide services to each small business within the State by December 31, 2018. Efficiency Maine shall design programs and measures that provide sufficient technical assistance or direct oversight of work done to overcome the unique economic barriers that prevent small industrial businesses from taking advantage of energy cost and demand reduction opportunities, including but not limited to small staff size, limited access to capital and frequent need for direct subsidy. Efficiency Maine shall conduct outreach to small industrial businesses and shall avoid complexity in program design and registration, paperwork and other aspects of its programs and measures in order to maximize small industrial business participation.

2. Evaluation and technical assistance. Industrial sector programs shall provide for free evaluation by persons meeting qualifications established by Efficiency Maine under section 10107, subsection 1, paragraph C and for such technical assistance as businesses need to conduct effective request-for-proposal processes. To the maximum reasonable extent, Efficiency Maine shall ensure that each building or process for which industrial program services are sought is evaluated for the full range of programs and measures to increase energy efficiency and conservation, distributed renewable energy technology and effective load management, so that the largest possible range of such programs and measures can be adopted at one time.

3. Leveraging other funds. Efficiency Maine may not substitute its services for those reasonably available in the market and shall maximize facilitation of performance-based contracts with energy service companies. In leveraging funds from other entities for industrial programs, Efficiency Maine shall minimize the extent to which such funding comes from forms of indebtedness with recourse against the business receiving services. Efficiency Maine shall, between direct subsidy, leveraged funds and any other sources, promote adoption of all efficiency, conservation and demand reduction measures that have a payback period of 15 years or less and shall especially seek to leverage funds for heat energy efficiency and demand reduction.

An industrial energy consumer to whom the cost of purchase of efficiency credits under section 10009 is passed on by a transmission and distribution utility, a natural gas utility or a heating fuel wholesaler is entitled to receive from Efficiency Maine services of value equal to at least the amount of the cost passed on. The commission shall determine the amount of the cost passed on, taking account of any state or federal tax treatment of the purchase of the credits and any other relevant considerations.

4. Equity. Efficiency Maine may offer individualized services to businesses, but shall seek to avoid giving one business a competitive advantage over its competitors with respect to services for facilities in the State, except insofar as benefits for small businesses in an industry must be proportionally more generous than benefits for large businesses. To achieve this end, Efficiency Maine may assist businesses under this subchapter that have already achieved substantial efficiency, demand reduction and load management savings in achieving similar savings that have payback periods longer than 15 years.

5. Split incentives. In providing services and developing programs and measures for industrial facilities with rented space or equipment, Efficiency Maine shall take account of the fact that the entity paying energy costs is often not the entity with authority to adopt energy cost reduction measures and shall strike a reasonable balance between ensuring that benefits flow to the entities who are paying energy costs directly and making programs and measures attractive for both landlord and tenant. Efficiency Maine shall work with landlords, tenants and subtenants to implement comprehensive building and process efficiency and demand reduction measures, with benefits flowing chiefly to the entity paying for energy, and with due account taken of the effect that lease terms may have on the long-term cost-effectiveness of a given measure.

§ 10193. Relationship to other agencies

1. Cooperative relationship. Efficiency Maine shall establish cooperative relationships with governmental units and agencies with responsibility for business assistance and development, including but not limited to the Finance Authority of Maine and the Department of Economic and Community Development, to enhance the ability of those entities to advance Efficiency Maine's goals and to integrate their activities into Efficiency Maine's operational and long-term plans.

2. Contracting for program administration. Efficiency Maine may contract with any governmental unit or agency to administer any aspect of its industrial sector programs and shall ensure that such a contract is consistent with the requirements of this chapter.

SUBCHAPTER 7

WORKFORCE DEVELOPMENT

§ 10201. Green Energy Job Growth Fund

Five percent of the funds procured from the sale of efficiency credits for electricity, natural gas and heating fuel under section 10009 and from forward capacity market payments administered by the regional transmission organization or other capacity payments that are attributable to projects funded in any measure by Efficiency Maine must be transferred to the Green Energy Job Growth Fund established under Title 26, section 2041.

§ 10202. Training for installers of solar equipment

1. Installation training. Efficiency Maine may establish training programs for installers of solar equipment that most effectively meet the needs of the public, to the extent the programs are integrated with workforce development systems pursuant to Title 26, section 2041. If it does establish such programs, Efficiency Maine:

A. May develop separate programs for different solar technologies or applications when Efficiency Maine determines that the skills or training for the installation of those technologies or applications merit the distinction;

B. Shall confer with the Plumbers' Examining Board as established in Title 5, section 12004-A, subsection 2 and the Electricians' Examining Board as established in Title 5, section 12004-A, subsection 13 when it develops the course content and requirements;

C. Shall determine the content of the training, the hours required for course completion and the manner in which applicants for certification under this section must demonstrate proficiency in solar equipment installation;

D. Shall issue a certificate of completion to individuals who meet the requirements Efficiency Maine has established;

E. May establish reasonable course fees. All fees must be paid to Efficiency Maine for the purposes of this subsection;

F. Shall determine terms for the expiration and renewal of a certificate of completion; and

G. Shall determine an appropriate means of maintaining recognition of the training received by persons holding certificates issued pursuant to former Title 32, chapter 87.

2. Qualifications for installing solar equipment. A certificate of completion issued by Efficiency Maine pursuant to subsection 1 does not exempt the holder from any applicable licensing requirements for activities involved in installing solar equipment, including but not limited to licensing requirements established in Title 32, chapter 17 or 49.

§ 10203. Training for energy auditors

1. Auditor training. Efficiency Maine may establish training programs for energy auditors that most effectively meet the needs of the public, to the extent the programs are integrated with workforce development systems pursuant to Title 26, section 2041. For the purpose of this subsection, an energy

auditor is a person who is trained to prepare a report that delineates the energy consumption characteristics of a building, identifies appropriate energy efficiency operations and maintenance procedures and recommends appropriate energy efficiency measures. If it does establish such programs, Efficiency Maine:

- A. May develop separate programs for audits of different building types and functions when Efficiency Maine determines that the skills or training needed to perform these audits merit the distinction;
- B. Shall determine the content of the training, the hours required for course completion and the manner in which applicants for certification under this subsection must demonstrate proficiency in energy auditing;
- C. Shall issue a certificate of completion to individuals who meet the requirements Efficiency Maine has established;
- D. May establish reasonable course fees. All fees must be paid to Efficiency Maine to be used for the purposes of this subsection;
- E. Shall determine terms for the expiration and renewal of a certificate of completion; and
- F. Shall determine an appropriate means of maintaining recognition of the training received by persons holding a certificate issued pursuant to former Title 32, chapter 88.

Efficiency Maine shall in its sole discretion determine whether individuals are qualified to perform work that is partly subsidized by Efficiency Maine, including contractors in programs administered by or jointly with the Maine State Housing Authority.

§ 10204. Other certification programs

Efficiency Maine may establish a training or certification program for persons who install, maintain or use energy technologies or who must comply with energy-related standards or practices required by statute.

SUBCHAPTER 8

RESEARCH AND DEVELOPMENT

§ 10221. Research and development funding

One percent of funds procured from the sale of efficiency credits for electricity, natural gas and heating fuel under section 10009, and from forward capacity market payments administered by the regional transmission organization or other capacity payments that are attributable to projects funded in any measure by Efficiency Maine must be transferred to the Maine Technology Capacity Fund, established under Title 5, section 15303-A, to be used solely to promote research, development, commercialization and extension of environmental technology related to energy efficiency and conservation, effective electricity load management and renewable energy. Efficiency Maine may retain

these funds for its activities if the board determines, in its sole discretion, that the Maine Technology Institute has decreased investment for these purposes from other funds it manages as a result of receiving efficiency credit funds.

SUBCHAPTER 9

EDUCATIONAL PROGRAMS

§ 10241. Provision of public information

1. General. At least 0.1% of funds procured from the sale of efficiency credits for electricity, natural gas and heating fuel under section 10009, and from forward capacity market payments administered by the regional transmission organization or other capacity payments that are attributable to projects funded in any measure by Efficiency Maine, must be expended for public information programs. Efficiency Maine in coordination with the commission under section 10001, subsection 1 shall provide to the public information about energy technologies and energy efficiency practices, in accordance with the administrator's contract, including any state building energy standards and their implementation. In providing public information, Efficiency Maine shall consider:

- A. The aspects of energy technologies, energy efficiency and load management practices, building energy standards and their implementation about which the public needs information;
- B. The most effective means of providing the information; and
- C. The members of the public who would most benefit from public information.

2. Specific programs. Efficiency Maine shall examine and consider developing:

- A. Instructional or informational manuals, including but not limited to a manual of accepted practices to assist builders of residential buildings to comply with any state building energy standards;
- B. Fact sheets, including but not limited to fact sheets on insulation materials and the positive and negative effects that may result from their installation; and
- C. Any other means of providing information that will accomplish the purposes of this section.

3. Funding. Efficiency Maine may seek or may coordinate with other agencies, individuals or entities to seek federal funding for the purposes of this section and, to the extent permitted in the administrator's contract, the administrator may charge reasonable fees approved by the board to cover the costs of services provided pursuant to this section. All fees must be paid to the Treasurer of State and used to reimburse Efficiency Maine for its expenses in providing the service for which the fee is charged.

4. Coordination. To the extent practicable, Efficiency Maine shall coordinate with other agencies, individuals or entities, within and outside the State, for the purposes of this section.

SUBCHAPTER 10

LOAD MANAGEMENT PROGRAMS

§ 10261. Establishment of load management programs

Efficiency Maine shall develop, implement and monitor programs and measures to increase effective load management, consistent with the administrator's contract, and may accept forward capacity market payments administered by the regional transmission organization or other capacity payments to fund load management projects. Efficiency Maine shall partner with public utilities and other entities as appropriate to carry out the purposes of this section.

PART L

Sec. L-1. 35-A MRSA c. 99 is enacted to read:

CHAPTER 99

ENERGY AND WATER EFFICIENCY STANDARDS FOR APPLIANCES

§ 10301. Short title

This chapter may be known and cited as "the Maine Energy and Water Efficiency Standards for Appliances Act."

§ 10302. Scope

1. Authority. The commission shall prescribe by rule standards for minimum levels of operating efficiency, based on a reasonable use pattern, and may prescribe other cost-effective measures, including incentive programs, fleet averaging, energy and water consumption labeling not preempted by federal labeling law and consumer education programs, to promote the use of energy-efficient and water-efficient appliances whose use, as determined by the commission, requires a significant amount of energy or water on a statewide basis. The minimum levels of operating efficiency must be based on feasible and attainable efficiencies or feasible improved efficiencies that will reduce the growth rate of energy or water consumption in the State. The standards must become effective no sooner than one year after the date of adoption or revision. A new appliance manufactured on or after the effective date of the standards may not be sold or offered for sale in the State unless it is certified by the manufacturer to be in compliance with the standards. The standards adopted or revised pursuant to this chapter may not result in any added total costs for consumers over the designed life of the appliances concerned. When determining cost-effectiveness, the commission shall consider the value of the water or energy saved, the effect on product efficacy for the consumer and the life-cycle cost to the consumer of complying with the standard. The commission shall consider other relevant factors, including, but not limited to, the effect on housing costs, the total statewide costs and benefits of the standard over its lifetime, economic impact on businesses in the State, alternative approaches and their associated costs and the value of harmonization with standards adopted by other states.

A. Within 3 months of the effective date of this chapter, the commission shall adopt rules that contain the energy and water efficiency standards in California Code of Regulations, title 20, division 2, chapter 4, sections 1601-1608 (2008), and contain such other provisions of said regulations as the commission determines appropriate. The rules must provide that the standards apply with the same effective dates as under the said California Code of Regulations, except that in no case may the standard have an effective date sooner than one year after the date of adoption by the commission of the rules. Rules initially adopted under this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. Subsequently adopted rules or amendments to rules under this paragraph are major substantive rules, pursuant to Title 5, chapter 375, subchapter 2-A, except that the following types of rules are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A:

(1) Rules that increase the minimum level of operating efficiency for an existing standard up to the level of the applicable national voluntary consensus standard adopted by the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc. or, for appliances not covered by those standards, up to the level established in a similar nationwide consensus standard;

(2) Rules that change the measure or rating of any standard, if the minimum level of operating efficiency remains substantially the same;

(3) Rules that adjust the minimum level of operating efficiency in an existing standard to reflect changes in test procedures that the standards require manufacturers to use in certifying compliance, if the minimum level of operating efficiency remains substantially the same; and

(4) Rules that readopt a standard preempted, enjoined or otherwise found legally defective by an administrative agency or a court, if final legal action determines that the standard is valid or later changes to state or federal law remove the source of any invalidity and the standard that is readopted is not more stringent than the standard that was found to be defective or preempted.

B. To the extent the rules the commission adopts pursuant to paragraph A are preempted by federal law, the commission shall seek a waiver of preemption. If the commission determines that further rulemaking in areas subject to federal preemption is in the public interest, it may seek a waiver of preemption for such rulemaking.

2. Application. This chapter and standards adopted by the commission by rule pursuant to this chapter apply to new appliances sold or offered for sale in the State, except those sold wholesale in the State for final retail sale outside the State and those designed and sold exclusively for use in recreational vehicles or other mobile equipment. This chapter and rules adopted pursuant to this chapter apply only to units manufactured on or after its effective date. The appliances regulated under this chapter include but are not limited to:

A. Refrigerators, refrigerator-freezers and freezers that are operated by alternating current electricity, including but not limited to refrigerated bottled or canned beverage vending machines, automatic commercial ice-makers, refrigerators with or without doors, freezers with or without doors, walk-in refrigerators, walk-in freezers and water dispensers, but excluding the following types:

(1) Consumer products with total refrigerated volume exceeding 39 cubic feet;

(2) Commercial refrigerators, commercial refrigerator-freezers and commercial freezers with total refrigerated volume exceeding 85 cubic feet, except that walk-in refrigerators and walk-in freezers are not excluded;

(3) Blast chillers; and

(4) Automatic commercial ice makers with a harvest rate of less than 50 pounds per 24 hours and automatic commercial ice makers with a harvest rate greater than 2,500 pounds per 24 hours;

B. Room air conditioners, room air conditioning heat pumps, packaged terminal air conditioners and packaged terminal heat pumps;

C. Central air conditioners that are electrically powered unitary air conditioners and electrically powered unitary heat pumps, except those designed to operate without a fan;

D. Gas-fired air conditioners and gas-fired heat pumps;

E. Spot air conditioners, evaporative coolers, ceiling fans, whole house fans and residential exhaust fans;

F. Vented gas space heaters and vented oil space heaters, vented and unvented infrared gas heaters and gas-fired combination space heating and water heating appliances;

G. Water heaters, including but not limited to hot water supply boilers;

H. Gas pool heaters, oil pool heaters, electric resistance pool heaters, heat pump pool heaters, residential pool pumps and portable electric spas;

I. Plumbing fittings, including showerheads, lavatory faucets, kitchen faucets, metering faucets, replacement aerators, wash fountains, tub spout diverters and commercial pre-rinse spray valves;

J. Plumbing fixtures, including toilets and urinals;

K. Lighting devices;

(1) Fluorescent lamp ballasts that are designed to operate at nominal input voltages of 120 or 277 volts, operate with an input current frequency of 60 hertz and whose lamp diameters equal 5/8 inch, one inch or 1 1/2 inches, commonly referred to as T5, T8 and T12 lamps;

(2) Federally regulated general service fluorescent lamps, federally regulated incandescent reflector lamps and state-regulated general service incandescent lamps;

(3) Emergency lighting, including illuminated exit signs;

(4) Traffic signal modules and traffic signal lamps;

(5) Luminaires that are torchieres, metal halide luminaires and under-cabinet luminaires;

(6) Light fixtures, lighting control, ballast or any component of those devices;

(7) New and replacement lighting devices and interior and exterior lighting devices; and

(8) Indoor and outdoor lighting devices, including but not limited to street lights and parking lot lighting;

L. Dishwashers that are federally regulated consumer products;

M. Clothes washers that are federally regulated consumer products and commercial clothes washers;

N. Clothes dryers that are federally regulated consumer products;

O. Cooking products that are federally regulated consumer products and food service equipment;

P. Electric motors, excluding definite purpose motors, special purpose motors and motors exempted by the United States Department of Energy under 42 United States Code, Section 6313(b);

Q. Low voltage dry-type distribution transformers that are designed to operate at a frequency of 60 hertz and that have a rated power output of not less than 15 kVa;

R. Single voltage external AC to DC and AC to AC power supplies included with other retail products or sold separately, excluding power supplies that are classified as devices for human use under the Federal Food, Drug, and Cosmetic Act, 21 United States Code, Chapter 9 and that require United States Food and Drug Administration listing and approval as a medical device; and

S. Consumer audio and video equipment, including televisions, compact audio devices, digital video disc players and digital video disc recorders.

3. Display of date of manufacture. An appliance regulated pursuant to this chapter, except for plumbing fittings, that is manufactured on or after January 1, 2010, may not be sold or offered for sale in the State unless the date of the manufacture is displayed in an accessible place on that appliance.

4. Predictability of regulation. During the period of 5 years after the commission has adopted a standard for a particular appliance pursuant to this chapter, an increase or decrease in the minimum level of operating efficiency required by the standard for that appliance may not become effective unless the commission adopts other cost-effective measures for that appliance.

5. Confidentiality of sales information. In the rule-making process, the commission shall designate and treat nonpublic sales information of an individual manufacturer that is obtained by the commission as confidential, and such information designated by the commission is not a public record under Title 1, section 402, subsection 3. The commission shall ensure transparency by means other than public disclosure when such information is considered.

6. Reasonableness of information requests. The commission may not request any information from a manufacturer that cannot be reasonably produced in the exercise of due diligence by a manufacturer.

7. Lighting standards affecting transportation safety. The commission shall consult with the Department of Transportation to ensure that outdoor lighting standards are compatible with the department's policies and standards for transit-related safety and illumination levels.

PART M

Sec. M-1. State Purchasing Agent; report on fuel economy of state-purchased vehicles. By January 1, 2010, the State Purchasing Agent shall report to the Joint Standing Committee on Natural Resources regarding compliance with the Maine Revised Statutes, Title 5, section 1812-E.

Sec. M-2. Green energy industry partnership proposal. By January 1, 2010, the Department of Labor and the Department of Economic and Community Development shall, in consultation and coordination with local and statewide stakeholders, develop a proposal to the Northern Border Regional Commission created pursuant to the Federal Food, Conservation, and Energy Act of 2008, Public Law 110-246 regarding a green energy industry partnership for the downeast and coastal regions of the State, unless it appears that the commission will not have funding or is otherwise unlikely to award funds for the proposal. The proposal, and any other green energy industry proposals developed by the 2 departments, shall meet the requirements of the Maine Revised Statutes, Title 26, section 2041, and funds from the Maine Green Energy Job Growth Fund may be used to develop the proposals, within the constraints of that section.

Sec. M-3. Department of Economic and Community Development report. The Department of Economic and Community Development shall analyze the current opportunities for and participation in the green energy economy by business enterprises owned by women, minorities and members of other target populations in the State, identify existing barriers to their successful participation in the green energy economy and develop strategies with specific policy recommendations to improve

their successful participation in the green energy economy. The Department of Economic and Community Development shall report on its research, analysis and recommendations to the Joint Standing Committee on Business, Research and Economic Development by March 1, 2010. The committee may submit a bill regarding the subject matter of the report to the Second Regular Session of the 124th Legislature.

Sec. M-4. Guidelines for implementation. In carrying out their respective duties under the Maine Revised Statutes, Title 26, section 2041, the Department of Labor and the Department of Economic and Community Development shall consider the approaches to green energy industry partnerships and workforce development taken in Oregon, Washington and other states with effective models.

Sec. M-5. Application. The Maine Revised Statutes, Title 30-A, section 903-B and the amendments to Title 5, section 1764-A made by this Act do not apply to any construction projects that have received design approval prior to the effective date of rules adopted pursuant to those provisions. Amendments to Title 20-A, section 15908-A made by this Act do not apply to any school construction project that receives voter approval at a public referendum pursuant to Title 20-A, section 15904 prior to the effective date of rules adopted pursuant to Title 20-A, section 15908-A.

Sec. M-6. Guidelines for implementation. The programs that the Legislature intends to be administered by Efficiency Maine or coordinated with its efforts under the Maine Revised Statutes, Title 5, section 58 and Title 35-A, section 10152 include but are not limited to: the Finance Authority of Maine's Energy Conservation Loan Program, Economic Recovery Loan Program and Energy Audit Equipment Loan Program; the Maine State Housing Authority's program to clean, tune and evaluate home heating systems, Central Heating Improvement Program, weatherization programs, Home Energy Loan Program, Multifamily Home Energy Loan Program, energy efficiency mortgage options, Appliance Replacement Program and Carbon Market Project as well as any distributed renewable energy technology programs and green building standard programs; the Maine Community Action Association's Keep ME Warm fund; the Department of Conservation's survey of heating systems in public buildings, fuels to schools, wood pellet, wood-to-energy and wood pricing programs; the Department of Environmental Protection's Governor's Carbon Challenge, Green Certification and Environmental Leaders of Maine: Smart Growth through Smart Production programs; and all relevant programs of the Public Utilities Commission and the Office of the Public Advocate, the Department of Economic and Community Development and the University of Maine Cooperative Extension.

Sec. M-7. Transition; Efficiency Maine successor to Public Utilities Commission's conservation program; transfer of funds. The Public Utilities Commission shall transfer to Efficiency Maine as established under the Maine Revised Statutes, Title 35-A, chapter 97 all funds administered by the commission pursuant to Title 35-A, section 3211-A and all existing contracts, agreements and compacts of the Public Utilities Commission entered into pursuant to Title 35-A, section 3211-A and currently in effect. Efficiency Maine shall administer the funds and all contracts, agreements and compacts in accordance with all relevant existing rules and procedures in operation or adopted by the Public Utilities Commission and such rules and procedures remain in effect and continue in effect with respect to those contracts, agreements and compacts until revised, rescinded or amended by the Public Utilities Commission with the agreement of Efficiency Maine. All funds transferred to Efficiency Maine under this section and not required to fund existing contracts, agreements or compacts must be applied in the same manner as funds collected pursuant to Title 35-A, section 10009.

PART N

Sec. N-1. 5 MRSA §3327, sub-§3, ¶C, as enacted by PL 2003, c. 487, §1, is amended to read:

C. The council may seek, and the Public Utilities Commission may provide, funds to the council pursuant to Title 35-A, section ~~3211-A~~10009, subsection ~~5~~A8.

Sec. N-2. 30-A MRSA §4722, sub-§1, ¶CC, as enacted by PL 2007, c. 645, §3, is amended to read:

CC. Encourage and provide incentives to individuals and entities that conserve energy; support and participate, ~~with resources derived from sources except the conservation program fund under Title 35-A, section 3211-A, subsection 5,~~ in markets that reward energy conservation and use the proceeds from this participation to support affordable housing programs under its jurisdiction; and create and administer programs that encourage individuals and entities to conserve energy.

Sec. N-3. 35-A MRSA §117, sub-§3, ¶B, as enacted by PL 2005, c. 432, §1, is amended to read:

B. After deducting any amount used pursuant to paragraph A, the commission may, to the extent practicable and in as equitable and fair a manner as possible, apply administrative penalties, along with any accrued interest, in accordance with this paragraph. The commission shall seek to apply the amount in a manner that benefits those customers affected or potentially affected by the violation, if they can reasonably be identified or, if the commission determines this application of the amount to be impractical or unreasonable, in a manner that benefits the class or group of customers affected or potentially affected by the violation. In order to achieve the purposes of this paragraph, the commission may apply the funds:

- (1) In the form of a direct payment or credit to the customers or group or class of customers affected or potentially affected by the violation resulting in the administrative penalty;
- (2) To supplement a low-income assistance or outreach program that the commission determines would benefit customers affected or potentially affected by the violation resulting in the administrative penalty;
- (3) To supplement the ~~conservation program fund~~Efficiency Trust Fund established pursuant to section ~~3211-A~~10009, subsection 5;
- (4) To supplement the telecommunications education access fund established pursuant to section 7104-B; or
- (5) To supplement any other program or fund that the commission determines would benefit customers affected or potentially affected by the violation.

Amounts applied pursuant to this paragraph to supplement an existing program or fund may not result in a reduction in other funding provided for the program or fund unless the reduction is outside the commission's control and the commission finds that application of the penalty amount to the fund or program is the most appropriate use of the penalty and the net effect will be an increase in total funding available to the program or fund.

Sec. N-4. 35-A MRSA §3153-A, sub-§1, ¶E, as amended by PL 2001, c. 624, §2, is further amended to read:

E. Transmission and distribution utility financing or subsidization of capital improvements undertaken by ratepayers to conserve electricity used by the ratepayers in the future. This paragraph applies to future programs for utility financing of energy conservation or load management as long as the goal of such programs is to economically defer or eliminate the need for transmission and distribution plant upgrades. In addition to programs undertaken pursuant to this paragraph, programs may be undertaken pursuant to ~~section 3211-A~~chapter 97 to achieve goals other than that identified in this paragraph;

Sec. N-5. 35-A MRSA §3210, sub-§7, as amended by PL 2007, c. 403, §5, is further amended to read:

7. Information. The commission shall inform electricity consumers in this State of the benefits of electricity generated in this State using renewable resources and of the opportunities available in this State to purchase electricity that is generated using those resources, including, but not limited to, green power supply products and renewable energy credit products certified under section 3212-A. The commission may not promote any renewable resources over others. The commission may apply for, receive and expend grant money from the United States Department of Energy and other government agencies for this purpose. Notwithstanding ~~section 3211-A~~10009, subsection 5, the commission also may use up to \$100,000 per year from the ~~conservation program fund~~Efficiency Trust Fund established under ~~section 3211-A~~10009, subsection 5 to support the purposes of this subsection. The commission may create or cause to be created a brand or logo to identify Maine renewable resources, including green power supply products and renewable energy credit products certified under section 3212-A, to consumers. The commission shall register any mark or logo created pursuant to this subsection with the United States Patent and Trademark Office or in accordance with Title 10, chapter 301-A, or both. Any brand or logo created pursuant to this subsection may only be used in accordance with the purposes of this subsection as approved by the commission.

Sec. N-6. 35-A MRSA §3210-B, sub-§3, as enacted by PL 2003, c. 610, §2, is amended to read:

3. Conservation programs. In designing and implementing conservation programs pursuant to ~~section 3211-A~~chapter 97, ~~the commission~~Efficiency Maine may make available to qualified Pine Tree Development Zone businesses established under Title 30-A special programs of enhanced value to aid state efforts to promote economic development within Pine Tree Development Zones. A program made available pursuant to this subsection must be cost-effective as defined by ~~the commission~~Efficiency Maine by rule or order pursuant to ~~section 3211-A~~chapter 97.

Sec. N-7. 35-A MRSA §3211-C, sub-§3, as amended by PL 2007, c. 661, Pt. D, §1, is further amended to read:

3. Funding level; fund. The commission shall assess transmission and distribution utilities to collect funds for the solar and wind energy rebate program in accordance with this subsection. The amount of all assessments by the commission under this subsection must result in total program expenditures by each transmission and distribution utility that do not exceed 0.005 cent per kilowatt-hour. To the extent practicable, the commission shall establish and collect the assessment in a manner that is consistent with the assessment made under section ~~3211-A~~10009. The commission shall establish a solar and wind energy rebate program fund to be used solely for the purposes of this section. All assessments made under this subsection are deposited in the fund. Any interest on funds in the fund must be credited to the fund. Funds not spent in any fiscal year remain in the fund to be used for the purposes of this section. The commission shall determine the allotment of the fund in each fiscal year between solar photovoltaic system rebates, solar thermal system rebates and qualified wind energy system rebates, with a minimum of 20% of the fund provided to each of the 3 types of rebates.

Sec. N-8. 35-A MRSA §10007, sub-§5, as enacted by PL 2007, c. 317, §14, is repealed and the following enacted in its place:

5. Staff. Efficiency Maine, as established under chapter 97, shall hire and organize staff resources for the board.

Sec. N-9. 35-A MRSA §10007, sub-§6, as enacted by PL 2007, c. 317, §14, is amended to read:

6. Triennial energy efficiency and conservation plan. The board shall vote on a detailed triennial energy efficiency and conservation plan developed jointly by the commission and the trustees of the Energy and Carbon Savings Trust pursuant to section ~~3211-A, subsection 2, paragraph K~~ and section 10008, subsection 7, referred to in this subsection as "the plan," and make a full report of the vote to the commission and the trustees of the Energy and Carbon Savings Trust in accordance with this subsection.

A. In developing the plan, the commission and the trustees of the Energy and Carbon Savings Trust shall consult the board and provide the opportunity for the board to provide input on drafts of the plan.

B. The board may review efficiency and conservation program budget allocations of the commission and the Energy and Carbon Savings Trust and provide general guidance to the commission and the trustees of the Energy and Carbon Savings Trust on program implementation.

C. The board may present any recommended changes to the plan to the commission and the trustees of the Energy and Carbon Savings Trust for review and final approval. The commission and the trustees may adopt, modify or reject any recommended changes presented by the board.

D. With respect to efficiency and conservation programs administered by the commission, the first plan must be developed and adopted to address all programs implemented on or after July 1, 2010.

SUMMARY

This bill provides funding for cost-effective efficiency and renewable energy technology. It creates an energy efficiency entity called Efficiency Maine to administer a wide range of efficiency and related programs and to leverage private and federal funds. It ensures the provision of training for the jobs that these measures will create. Specifically, the bill accomplishes the following.

Part A requires all agencies of State Government that administer a program related to energy efficiency, load management and distributed renewable energy to contract with Efficiency Maine to administer the program, unless a different cooperative arrangement is more cost-effective.

Part A also raises efficiency standards for state-funded construction and state-purchased vehicles.

Part B adds Efficiency Maine project bonds issued by the Finance Authority of Maine to the portion of the State ceiling for private activity bonds allocated to the Finance Authority of Maine.

Part B also requires every building and industrial facility in the State, with certain limited exceptions, to get a thorough energy audit within the next 10 years. If the evaluation is done in coordination with Efficiency Maine, the audit must be paid for by Efficiency Maine.

Part C adjusts school funding provisions to make state funding for adult education more responsive to increases in enrollment attributable to new workforce development programs and to permit career and technical education centers to receive targeted workforce development program funds.

Part C also raises efficiency standards for school construction, involves Efficiency Maine in the construction project approval process, gives school administrative units increased flexibility in contracting with energy service companies for energy efficiency, load management and distributed renewable energy improvements and makes school administrative units eligible for technical and other assistance from Efficiency Maine in pursuing energy-related improvements.

Part D establishes a Green Energy Job Growth Initiative to ensure that workforce development efforts keep pace with jobs created by the bill. It requires the Department of Labor, in consultation with a broad range of stakeholders, to analyze current and future workforce needs in energy-related fields and to develop career ladders and recommendations for certifications, standards and licensing.

Part D also requires the Department of Labor, as part of the Green Energy Job Growth Initiative, to administer a competitive grant program to support development of industry partnerships to meet workforce needs in energy-related fields and to leverage private and federal workforce development funds to that end. Funding is provided from the new revenues generated by the energy efficiency resources standard established in Part J of the bill.

Part D also requires the Department of Labor, as part of the Green Energy Job Growth Initiative, to provide direct support to workers seeking training in energy-related fields, in a manner modeled on the Competitive Skills Scholarship Program.

Part E raises efficiency standards for county buildings, expands counties' ability to contract with energy service companies to achieve energy savings and makes counties eligible for technical and other assistance from Efficiency Maine.

Part F raises efficiency standards for low-income rental housing, requires landlords who participate in housing subsidy voucher programs to adopt efficiency measures that do not increase the indebtedness of the landlord and establishes a collaborative relationship between the Maine State Housing Authority and Efficiency Maine in delivering efficiency programs to the residential sector.

Part G expands the capacity of municipalities to use the property tax billing system to administer energy efficiency assistance programs and applies higher efficiency standards to municipal buildings to the extent that the State or another entity provides funding to cover the additional up-front cost of meeting those standards.

Part H establishes a partnership between the Maine Municipal Bond Bank and Efficiency Maine to administer the bank's Efficiency Partners program that provides loans for efficiency upgrades to municipal and public school buildings, requires the bank to consult with Efficiency Maine in administering its other programs and applies the bank's aggregation powers to the purchase of energy efficiency-related products and services.

Part I provides a definition of "distributed renewable energy technology," changes certain public utility laws to account for the creation of Efficiency Maine and requires transmission and distribution utilities and gas utilities to coordinate with Efficiency Maine in administering efficiency and distributed renewable energy technology programs and requires those utilities' cooperation in distributing information and allowing financing of efficiency-related projects to use the utilities' billing systems.

Part I also requires the Public Utilities Commission to recommend efficiency standards for new electricity transmission lines and to establish a decoupling rate structure to encourage transmission and distribution utilities to reduce energy costs by reducing peak load.

Part J raises the renewable portfolio standard and establishes an energy efficiency resource standard that requires transmission and distribution utilities, gas utilities and heating fuel wholesalers to purchase energy efficiency credits to meet established efficiency targets and requires Efficiency Maine to deliver programs and services that meet those targets. It also provides jurisdiction to the Public Utilities Commission to impose administrative penalties on heating fuel wholesalers who fail to purchase the credits.

Part J also gives responsibility for administering the Energy and Carbon Savings Trust to Efficiency Maine's administrator.

Parts J and K transfer most responsibility for energy efficiency and distributed renewable energy technology programs now administered by the Public Utilities Commission to Efficiency Maine.

Part K establishes Efficiency Maine as a public instrumentality of the State governed by a board that is directed to contract with a nonprofit entity to administer all of Efficiency Maine's programs and activities. The contract is required to include strict benchmarks for a broad range of quality measures.

Part K requires Efficiency Maine to implement a broad range of programs to increase energy efficiency for all of the State's residential, commercial and industrial energy consumers by using revenues from the sale of energy efficiency credits to fund cost-effective energy efficiency and distributed renewable energy technology products and services, workforce development activities to meet the demand for those programs and services and research, development and commercialization of products and services that reduce energy costs.

Part K creates various legal immunities for Efficiency Maine and establishes certain exemptions for its records from Maine's freedom of access laws.

Part K also requires Efficiency Maine to design its programs to maximize leveraging of other funding sources, including private financing, federal funds and payments from other New England states through the forward capacity market.

Part K also authorizes the Finance Authority of Maine to issue revenue bonds for Efficiency Maine projects approved by Efficiency Maine.

Part L requires the Public Utilities Commission to adopt minimum appliance efficiency standards.

Part M requires the State Purchasing Agent to report to the Legislature on compliance with fuel economy mandates for state-purchased vehicles.

Part M also requires the Department of Labor and the Department of Economic and Community Development to submit a proposal for an energy industry partnership for the downeast and coastal regions for funding by the Northern Border Regional Commission and to explore other possible energy industry partnership proposals.

Part M also directs the Department of Economic and Community Development to analyze and report to the Legislature on barriers to participation in the green energy economy by businesses owned by women, minorities and other target populations.

Part M directs the Department of Labor and the Department of Economic and Community Development in carrying out their duties under the Green Energy Job Growth Initiative and Part D of the bill to consider approaches taken in Oregon and Washington.

Part M also includes an application provision grandfathering certain already-approved construction projects of the State, counties, municipalities and schools from the new efficiency standards established under the bill.

Part M provides that it is the Legislature's intent that various specific programs now administered by various agencies be administered by Efficiency Maine or coordinated with its efforts.

Part M provides for the transfer of all of the Public Utilities Commission's Efficiency Maine program assets, fund and contracts to the new Efficiency Maine entity established under the bill.

Part N corrects cross-references.